UNITED STATES TRADE REPRESENTATIVE

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301 COMMITTEE

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SECTION 301 TARIFFS PUBLIC HEARING

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TUESDAY
MAY 15, 2018

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The Section 301 Committee met in the Hearing Room of the U.S. International Trade Commission, 500 E Street, SW, Washington, D.C., at 10:00 a.m., William Busis and Arthur Tsao, Co-Chairs, presiding.

PRESENT

WILLIAM BUSIS, Chair, U.S. Trade Representative
ARTHUR TSAO, Chair, U.S. Trade Representative
ALEXANDER AMDUR, Department of Homeland Security, Customs and Border Protection
SARAH BONNER, Small Business Administration
MAUREEN GREWE, Department of the Treasury
AMY HOLMAN, Department of State
JULIA HOWE, U.S. Trade Representative
NICOLE KORKOS, Council of Economic Advisors
TERRENCE McCARTIN, U.S. Trade Representative
SAGE MITCH, Department of the Treasury
STEVAN MITCHELL, Department of Commerce
BRYAN O'BYRNE, Small Business Administration
MAUREEN PETTIS, Department of Labor
RACHEL SALZMAN, Department of Commerce
ARI SULBY, Department of State

STAFF PRESENT
BILL BISHOP, U.S. International Trade Commission
TYRELL BURCH, U.S. International Trade Commission

WITNESSES PRESENT
MATTHEW AHLIN, Pittsburgh Carbide Die Co.
DAVID BAER, Element Electronics
DONALD BANKER, Banker Steel Company
ROBERT BECKWITH, Rosman Corporation
NATHAN BOWEN, National Association of State Departments of Agriculture
MIKE BRANSON, RHEEM Manufacturing Co., Air Conditioning Division Operations
TIM BRIGHTBILL, Wiley Rein on Behalf of SolarWorld Americas
ED BRZYTWA, American Chemistry Council
MARY BUCHZEIGER, Lucerne International
GEORGE CARLISLE, AlterSciences
CLARK PACKARD, R Street Institute
JOSEPH COHEN, Snow Joe, LLC
PAUL CZACHOR, American Keg Company
LAURENT DE MEY, Skyline Steel
LINDA DEMPSEY, National Association of Manufacturers
BILL FATH, Weir Slurry Group
DAVID FENIGER, American Posts, LLC
THOMAS FISH, Anvil International
ROBERT GRIGGS, Trinity Products, LLC
PATRICK HAYDEN, SMT Corporation
VANCE HAYS, Standard Industrial Corporation
OWEN HERRNSTADT, International Association of Machinists and Aerospace Workers
MICHELLE ERICKSON JONES, Farmers for Free Trade
JOSH KALLMER, ITI Council
JONATHAN KING, TCL North America
ROBERT KOPF, U.S. Steel Corporation
SCOTT LECHNER, Zoeller Pump Company
XINZE LIU, China General Chamber of Commerce-USA
AARON LOWE, Auto Care Association
DANIEL McGAHN, American Superconductor Corporation
MIKE MOHAN, Best Buy Co., Inc.

FRANK MOU, Interpreter for Guiqing Wang

QING REN, China Chamber of International Commerce

PATRICK ROGERS, TECO-Westinghouse Motor Company

CHAD SEVERSON, InSinkErator

GREG SKELTON, SABIC

CHAS SMITH, Roku, Inc.

MICHAEL STATECZNY, New Castle Stainless Plate

JEFFREY STERNER, High Industries, Inc.

JIAN TAN, China Chamber of International Commerce

JOHN TANG, DHH Washington, D.C. Law Office

GEORGE TUTTLE, III, Sanden International (USA), Inc.

GUIQING WANG, China Chamber of Commerce for Import and Export of Machinery and Electronic Products

CORY WATKINS, Schumacher Electric

BO YI, Southeast University Law School

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

10:00 a.m.

CHAIR BUSIS: Good morning and welcome. The Office of the United States Trade Representative, in conjunction with the Inter-Agency Section 301 Committee, is holding this public hearing in connection with the Section 301 investigation of China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation.

The United States Trade Representative initiated this investigation on August 18, 2018. The scope of the investigation is set out in the Notice of Initiation published at 82 FR 40213. This is the second public hearing in this investigation.

On October 10, 2017, USTR and the Section 301 Committee held an initial hearing. At that hearing, the witnesses focused on whether the acts, policies, and practices of the Government of China covered in the investigation are unreasonable or discriminatory and burden or restrict U.S. commerce and thus, actionable under Section 301.

Based on a review of the evidence collected in the investigation, on April 2, 2018, the Trade Representative announced his determination that the acts, policies, or practices under investigation are actionable.

This finding is supported by a detailed 200-page report. The report is published on the USTR website.

The Trade Representative also announced on April 2 a proposed action to be taken in response. The proposed action is an additional 25 percent duty on a list of products from China, with an annual trade value of approximately $50 billion.

Details on the Trade Representative's determination in the investigation and on the proposed action are set out in an April 6, 2018 Federal Register Notice. It is published at 83 FR 14906.

The purpose of today's hearing is to

receive public testimony regarding the proposed tariff action. The Section 301 Committee will carefully consider the testimony provided at this public hearing.

The Committee will also review the written comments already received in response to the Federal Register Notice, as well as rebuttal comments due on May 22. The 301 Committee will then make a recommendation to the Trade Representative on the action to be taken in the investigation.

Before we begin the hearing, I will provide some procedural and administrative instructions, and then ask the agency representatives participating in the hearing today to introduce themselves.

The hearing is scheduled for three days, finishing mid-day on Thursday. We have some 17 panels of witnesses with over 100 individuals scheduled to testify. The provisional schedule has been posted on the USTR website.

We have seven, well actually, six panels of witnesses scheduled to testify today. We will have a brief break between panels and a longer break for lunch. I hope to cover the first two panels before we have our lunch break at mid-day.

Each organization appearing at the hearing is limited to five minutes of oral testimony. Each witness has lights, there's some lights in front of the witness tables.

It will start with green. At the four-minute mark, it will turn to yellow. And at the five-minute mark, it will start flashing red, at which time, you should please finish up your testimony.

After the testimony from each panel of witnesses, the Section 301 Committee will have an opportunity to ask questions. All questions will be from agency representatives. There will be no questions accepted from the floor. Committee representatives will generally direct their questions to one or more specific witnesses.

Post-hearing comments, including any written responses to questions from the Section 301 Committee, are due by Tuesday, May 22, 2018. The rules and procedures for written procedures are set out in the Federal Register Notice.

Given the number of witnesses and the schedule, we request that witnesses, when responding to questions, be as concise as possible.

We likewise ask witnesses to be understanding if and when the Chair ask that a witness conclude a response. In this regard, witnesses should recall that they have a full opportunity to provide more extensive responses in their post-hearing submissions.

No cameras or video or audio recording will be allowed during the hearing. A written transcript of this hearing will be posted on the USTR website and on the Federal Register Docket as soon as possible after conclusion of the hearing. If you have any questions about the facilities, please feel free to ask the guards at the front desk.

We are pleased to have international trade and economic experts from a range of U.S. Government agencies. The agencies will be providing different staffing during the hearing and they will, when a new staff member comes, they will introduce themselves to inform the public and to help out the transcription.

So, if you could all introduce yourselves. Bryan?

MR. O'BYRNE: Good morning. My name is Bryan O'Byrne, from the Office of International Trade at the Small Business Administration.

MS. HOLMAN: Good morning. I'm Amy Holman, I'm the Director of the Office of Multilateral Trade at the Department of State.

MR. MCCARTIN: Good morning. My name is Terry McCartin, I'm the acting Assistant U.S. Trade Representative for China Affairs.

MR. MITCHELL: Good morning. I'm Stevan Mitchell, the Director of the Office of Intellectual Property Rights in the International

Trade Administration, Department of Commerce.

MS. GREWE: Good morning. I'm Maureen Grewe in the Office of International Trade at the Treasury Department.

MS. PETTIS: Good morning. I'm Maureen Pettis. I'm at the Bureau of International Labor Affairs at the Department of Labor.

MR. AMDUR: Good morning. I'm Alexander Amdur. I'm with the Office of Trade at U.S. Customs Border Protection.

CHAIR BUSIS: And I am William Busis, Deputy Assistant USTR for Monitoring and Enforcement, and Chair of the Section 301 Committee. I think our first witness can proceed, Mr. Bishop?

MR. BISHOP: Thank you, Mr. Chairman. I would remind witnesses to please be mindful of the time allocation. And I would also remind everybody that there's absolutely no photography, recording, or streaming of today's proceeding. Thank you.

Our first witness on this panel is Tim

Brightbill of Wiley Rein, on behalf of SolarWorld Americas. Mr. Brightbill, you have five minutes.

MR. BRIGHTBILL: Thank you. Good morning, Mr. Busis. And thanks to all of you for holding and participating in this hearing. I'm Tim Brightbill of Wiley Rein, LLP, testifying today on behalf of SolarWorld Americas.

I appreciate this opportunity to appear before you to express SolarWorld's support for the duties on Chinese-origin products being imposed under Section 301 and to request that USTR add solar cells and modules to that list of products.

As USTR is aware, SolarWorld Americas is the largest and one of the only remaining U.S. manufacturers of solar cells and modules. It was one of the very few companies to testify during the first Section 301 hearing. In fact, the hacking of SolarWorld's information and technology were a key part of the USTR investigation.

SolarWorld and the domestic solar

industry have been devastated by the Chinese Government's policies and practices with respect to technology, intellectual property, and innovation.

This is detailed in USTR's comprehensive Section 301 report, which includes the following findings and information. In 2012, while SolarWorld was litigating a trade petition it had filed against solar imports from China, the 3PLA stole thousands of sensitive files from SolarWorld on at least 12 occasions.

According to DOJ, such information would have enabled a Chinese competitor to target SolarWorld's business operations aggressively from a variety of angles.

SolarWorld stated that the Chinese Government's cyber-theft of its proprietary business information resulted in more than $120 million in damages in the form of lost sales and revenue, because Chinese producers entered the market earlier than expected based on the proprietary information taken.

SolarWorld stated that its efforts to stay ahead of the Chinese wave of illegally dumped and subsidized imports were thwarted by the hacking and theft of proprietary information about the manufacturing process that SolarWorld had innovated.

And as the SolarWorld example illustrates, Chinese cyber-theft of commercially sensitive information often takes place in industries that the Chinese Government has prioritized for state support. And the victims often operate in U.S. industries that are already suffering from the result of China's other policy tools.

In short, SolarWorld Americas provided uniquely useful and valuable information to USTR for its report and submitted direct evidence of harm to its operations from the unfair and illegal Chinese trade practices.

To ensure that the Chinese companies who use this stolen solar technology and sell into the U.S. market do not profit from their theft, USTR should include solar cells and modules on the list of products to be subject to Section 301 duties.

USTR has explained that it will consider several criteria when it chooses these products. First, the duties will be imposed on products that benefit from Chinese industrial policies.

As USTR is aware, the Chinese Government maintains numerous policies to support the development of renewable energy and has artificially supported its domestic solar industry through industrial plans.

In addition, tariffs on these products are not likely to disrupt the U.S. economy, as there are both U.S. sources, including SolarWorld, and many alternative non-Chinese import sources for these products.

I would also note that the Section 201 solar safeguards investigation from earlier this year was a global action, which does not penalize China for its illegal and unfair actions, such as solar cyber-theft.

Therefore, we request that USTR impose additional Section 301 duties on solar cells and modules. In addition, the U.S. Government may wish to consider other restrictions on Chinese solar products which may be more effective than tariffs.

For example, the U.S. Government should restrict federal procurement of Chinese technology based on stolen data and technology and should prohibit or restrict Chinese solar cells and panels from all U.S. military and veterans installations and housing.

These restrictions should extend to all Chinese companies using solar PERC technology, regardless of whether the manufacturing occurs in China or a third country.

Ensuring that the 301 remedy addresses Chinese solar manufacturers and benefits U.S. solar manufacturing would penalize Chinese state-sponsored cyber-hacking, combat China's efforts to monopolize solar and renewable energy manufacturing, protect U.S. energy independence and critical infrastructure, and address China's systemic illegal and unreasonable practices that burden and restrict U.S. commerce.

Therefore, we request that USTR add solar cells and modules to the list of products subject to the Section 301 duty. Thank you on behalf of SolarWorld Americas, and I'll be happy to answer questions. Thank you.

MR. BISHOP: Thank you, Mr. Brightbill. Our next witness is Owen Herrnstadt with the International Association of Machinists and Aerospace Workers. Mr. Herrnstadt, you have five minutes.

MR. HERRNSTADT: Thank you. My name is Owen Herrnstadt, I serve as Chief of Staff and Director of Trade and Globalization to the International Association of Machinists and Aerospace Workers.

The IAM represents several hundred thousand active and retired members throughout North America. Our members work in a variety of industries, including aerospace, manufacturing, electronics, Defense, transportation, ship-building, and many more.

Much of what our members produce and service depends upon international trade. Given our vested interest in trade matters and our expertise in manufacturing, especially aerospace, we have, for many years, advocated support for trade actions that prohibit the forced transfer of technology and production to other countries from the U.S., especially with respect to China.

As has been previously stated, few countries are as capable and as aggressive as China in building a strong and vibrant aerospace industry, often on the reliance on the transfers of production and technology from Western companies, which they pit against one another.

Transfers of production and technology from U.S. aerospace and related companies is a serious matter. Among other things, they cost U.S. aerospace jobs and lead to a further decline in our aerospace industrial base in at least four different, but related ways. And I would guide you to my written testimony to look at those.

Efforts to stop China's demand that U.S. aerospace companies transfer technology and production, as I mentioned, are long overdue. The administration should move quickly to place tariffs on Chinese aerospace parts, components, and sub-assemblies that cost U.S. jobs.

The list of U.S. tariffs recently proposed includes many manufacturing items, including aircraft parts along the 8803-line series, as well as others. That said, identifying specific aerospace parts, components, and sub-assemblies that have been transferred to China at the cost of U.S. aerospace work is extremely difficult.

The detailed nature of these activities is not public and often proprietary. The growing nature of global supply chains adds to the complexity of tracking all of the parts. Take, for example, suppliers.

First, second, and third tier

suppliers to a U.S. aerospace company may have outsourced its products to China. Detailed information concerning these goods are controlled by U.S. aerospace companies and their suppliers, which remain the best and most accurate source for details on the precise nature of these forced transfers.

For this reason, as part of its investigation, we urge you to request that U.S. aerospace companies and their suppliers report the parts, components, and sub-assemblies that they have transferred to China in connection to China's overt and subtle demands for forced transfers.

Although difficult to identify specific parts, what is publicly known anecdotally related to transfers of technology and production to China should give USTR a good start.

And there are many examples of aerospace products that are now coming in from China for both large commercial aircraft producers, as well as others, and others in the manufacturing arena. Specific parts have also been covered as well, and I would direct you to my written testimony.

Arguments that placing tariffs on aerospace products that were transferred to China would cost U.S. jobs should be very, very closely scrutinized.

Asserting that a 25 percent tariff on Chinese parts would price these goods out of the market, when the imported Chinese part is a slight fraction of the overall price of a multi-million dollar aircraft, should undergo serious questioning.

In making its final determination, USTR should give great weight to placing tariffs on aircraft parts, components, and sub-assemblies that are already produced in the United States. It should also give weight to placing tariffs on parts, components, and sub-assemblies that were produced in the United States prior to being transferred to China.

But in order for all of these actions to be effective, they must also be combined with a comprehensive strategy that includes multilateral efforts to stop China from pitting one country's aerospace country against another. Thank you and I'd be happy to take further questions.

MR. BISHOP: Thank you, Mr. Herrnstadt. Our next witness is Patrick Hayden, on behalf of SMT Corporation. Mr. Hayden, you have five minutes.

MR. HAYDEN: Thank you very much. My name is Patrick Hayden. I am testifying on behalf of Tom Sharpe, the Vice President of SMT Corporation, who could not be here this morning due to his flight being cancelled by weather.

There is a section in the testimony where I will be speaking essentially in -- well, I'll be inserting his name for I. Chairman Busis and members of the Committee, thank you for the opportunity to provide remarks today on behalf of the Coalition for American Electronics Recycling, or CAER.

This industry and organization includes over 150 U.S. companies and supporting members that operate more than 300 facilities in 37 states, as well as the District of Columbia and Puerto Rico.

CAER members believe that electronics recycling should be performed securely and sustainably to protect national security and for the benefit of the American economy.

The United States exports, by conservative estimates, more than 750,000 tons of electronic waste materials, or e-waste, each year. This waste stream includes items such as computers, phones, and other electronics that contain the intellectual property of U.S. businesses, including companies that work on Defense and other technologies related to national security.

The key problem is that e-waste exports from our shores provide feed stock for counterfeit electronic components that pose a serious threat to our national security, critical infrastructure, and public health and safety.

Counterfeiters, based largely in China, harvest parts from used computers, then use sophisticated techniques to create fake components that are challenging to detect once they enter supply chains.

Mr. Sharpe's company, SMT Corporation, provides counterfeit detection services, and he himself can say that counterfeiters' sophistication increases every year. The fake parts are sold as new, often under false branding that overstates the capabilities of the chip.

As an electronics distributor serving the Defense industry, Mr. Sharpe personally saw a small portion of China's electronics counterfeiting industry during a visit to Shenzhen, China, that resulted in an impromptu tour of the nearby city of Shantou.

He witnessed sensitive electronic component parts being harvested from piles of e-waste, and later learned that much of this e-waste might have originated in our country. It is a vicious cycle, with our e-waste exports leaving our shores and coming back to us as counterfeit microchips.

It undermines our economy and security in four key ways. One, the theft of intellectual property. The Semiconductor Industry Association states that semiconductor companies spend tens of billions of U.S. dollars per year developing, manufacturing, and supporting products that will operate reliably for many years in customer applications. In contrast, counterfeiters spend minimal money developing and manufacturing products.

Threats to national security. According to a study by the Senate Armed Services Committee, counterfeit electronic components, which are prone to failure at any time, are pervasive in military weapons and equipment.

The study found 1,800 individual cases, totaling more than one million suspected counterfeit electronic parts in Defense hardware used by our war fighters. These include control systems for missiles, military aircraft, and helicopters.

The study notes that much of the material used to make counterfeit electronic parts is electronic waste, or e-waste, shipping from the United States and the rest of the world to China.

While there have been a variety of actions to address this problem since the Armed Services report, it remains serious. Just this month, an electronics distributor was charged with selling counterfeit electronics with military and commercial uses.

Three, risk to public health and safety. The problem is not limited to Defense systems. Experts say counterfeiters also threaten the reliability of critical infrastructure, such as telecommunications, energy, and transportation, as well as healthcare technology, consumer products, and more.

Digital networks are also at risk.

Counterfeit electronics provide a platform for hackers and cyber-terrorists to launch attacks. Malware added to counterfeit microchips could steal information or prevent a device from operating as designed.

Finally, the loss of American jobs. As stated in President Trump's National Security Strategy, promoting economic prosperity is a key factor in national security. When we ship e-waste overseas, we also export good American jobs.

A recent study shows that requiring domestic recycling of e-waste would create up to 42,000 quality jobs. Limiting the export of untested, non-working e-waste is a key component of any plan to address these issues. It is vital to our national security and economic interests to process these materials in the United States to keep them out of the hands of counterfeiters.

CAER urges the Committee, as part of its findings, to suggest to the U.S. Trade Representative and the lead agencies, including

Commerce and Treasury, that this important national security issue should be a key component in any negotiations with the Chinese Government.

This would be a followup on issues related to IP that were raised by the U.S. team that traveled to China on May 3 of this year. In addition, we urge USTR, Commerce, and Treasury to begin the process of adding e-waste to the Export Control List.

This would have the benefit of protecting U.S. IP from counterfeiters, encouraging the growth of domestic e-recycling industry, and ensuring that electronics that we rely on for so many things are safe for our military, our first-responders, and our consumers.

We have submitted more detailed written testimony that includes evidence backing up this testimony. CAER is happy to provide any additional information and is prepared to assist the Committee and USTR in any way you may require.

I thank you for your time and consideration of this testimony, and can answer any questions.

MR. BISHOP: Thank you, Mr. Hayden. Our next witness is Cory Watkins of Schumacher Electric. Mr. Watkins, you have five minutes.

MR. WATKINS: Good morning. Thank you to everyone for having us here to speak to you about this issue and how it affects Schumacher Electric. I am Cory Watkins, President of Schumacher. We just celebrated our 70th year in business, all, of course, in the U.S.

We are one of the world's largest manufacturers of battery chargers, jump-starters, and other automotive-related products. And we are in full support of the proposed tariffs, but would actually ask that you include our finished goods as part of the Harmonized Code listing that is currently not part of what was on the docket.

Some of the components that are in our products were included in the docket, but we would ask that, in order to protect our intellectual property, that the finished goods also be included.

By way of background there, without doing so, we still run the risk of the very problem that faces us today, which is Chinese companies taking our intellectual property, copying it, and then selling it to some of our own customers.

That presents a myriad of problems for us, because it is quite difficult, not only to serve a Chinese company with any sort of lawsuit for intellectual property, but it's also not very good business when you have to sue your customer for stealing that property.

And as the law is written now, of course, if we cannot serve a Chinese company, we're left only with going after the importer of record, which in that case is often our customer.

So, what we are looking for is the opportunity to protect the intellectual property that we have developed over the past 70 years. Currently, we have over 79 patents for different charging methods and means of charging batteries.

And with the process that exists right now, there is a huge cost to us, even if we were able to sue a Chinese company, each one of those lawsuits costs, you know, millions of dollars for us to defend, even if we are correct.

And with the threat of the counterfeit goods, the margin dollars are not there to invest that much in protecting it. So, that tariff would help us to protect our intellectual property.

And it also has a very beneficial side effect in that it would allow us to increase the amount of U.S. jobs for those same products. Currently, we manufacture in many spots in the world, but our primary focus is in the U.S. and North America.

And if we don't have this type of protection, we're left with what currently exists, and I can just tell you firsthand that that is not well enough enforced and doesn't have enough teeth to prohibit what has been going on.

Just in the past few weeks, we learned that one of our biggest customers is going with another Chinese manufacturer that we are already involved in litigation over for stealing our intellectual property.

And we would ask that we have our finished goods protected under this tariff, so that we have the ability to keep American jobs here and actually expand from where we currently sit. And it just levels the playing field for U.S. companies far beyond what currently exists today.

So, by doing that, we're going to be able to increase research and development jobs here, manufacturing jobs here, marketing jobs here, and we would just ask that when you finalize the docket, that you would include our Harmonized Tariff Code, which is 8504.40.95, and that's included in our testimony. Thank you very much.

MR. BISHOP: Thank you, Mr. Watkins. Our next witness is George Tuttle, III, on behalf of Sanden International (USA), Incorporated. Mr. Tuttle, you have five minutes.

MR. TUTTLE: Thank you. Good morning, members of the Section 301 Committee. My name is George Tuttle and I'm here today to present the following comments on behalf of my client, Sanden International (USA), Inc.

Mr. Jason Augustyn, Senior Vice President and Plant Manager, had intended to be present, but he was injured in an accident last week and was unable to attend.

Sanden is a mid-sized manufacturing company with 400-plus employees located in rural Wylie, Texas, with a population of 41,000 people. The company produces automotive air conditioning compressors in a Foreign-Trade Zone manufacturing facility, where high-grade castings are machined to precise tolerances, and both domestic and foreign components are assembled to form automobile air conditioning compressors for the U.S. and the world automotive market.

Sanden has become the world's largest

air conditioning compressor manufacturer that is not owned or controlled by an automobile manufacturer. We supply components to the most demanding and respected companies throughout North and South America, and around the globe.

Sanden is at the forefront of the industry, making use of computer-aided design products, comprehensive testing, and precision manufacturing. The facility in Wylie, Texas is a showcase of state-of-the-art technology and innovation.

We use the latest technology available to design and evaluate products, including 3D and CAD modeling, solid modeling, and prototype construction.

Our environmentally controlled chambers and wind tunnels simulate conditions of almost any temperature, humidity, and vehicle speed. In fact, the Wylie chamber is large enough to accept a Class A truck or a large unit of agricultural equipment.

With every new vehicle design,

environmental concern, or regulation, our customer needs change. We continually project those needs and work toward effective, innovative solutions.

For example, Sanden pioneered the development of high-efficiency compressors for electric vehicles long before production of the first generation of OEM electric cars and trucks were available.

To maintain our business and technological advantage, as well as design and research for new and emerging products, we would be severely impacted if the special 301 duties are enacted on the parts needed by Sanden.

Implementation of the Section 301 tariffs without modification or allowance of duty mitigation or elimination by utilizing the benefits of the Foreign-Trade Zone will significantly impact the cost of manufacturing at Sanden.

We estimate an additional $3.5 million in duty payments per year will be required for the affected components that we currently import from China. Such an aggressive and instantaneous impact to our finances will significantly alter our ability to maintain our current level of employment.

Because of the nature of our business and long-term supply contracts with automobile manufacturers, we cannot simply pass on these cost increases.

The dramatic increase in our costs to make use of previously imported parts in our FTZ will make it difficult, if not impossible, to contemplate future investment and maintain our current workforce levels.

This will result in reductions in facility investment and employee workforce. As noted in our introduction, we have made significant capital investments in our manufacturing facilities and they are textbook examples of state-of-the-art processes, making the most of the abilities of both man and machine.

Should the proposed 301 tariffs be implemented, however, further expansion and capital investments will be placed on hold or cancelled altogether.

Our Wylie, Texas facility has a current headcount of 431 employees. Should the proposed Section 301 tariffs be implemented, the company has projected an immediate reduction in staffing by 39 people. This reduction would affect diverse areas of our facility, including production, sales, and general administration.

Sanden would be specifically affected by the proposed special duty rate additions to several of the targeted Harmonized Tariff Schedule Codes, including electromagnetic clutch parts for compressors under 8505.90, air compressor parts under 8414.90, and fuses under 8536.10.

We source our materials domestically whenever possible, however, due to limited availability, some products are not available in the United States. The application of the proposed Section 301 tariffs to these HTS Codes will greatly impact Sanden's financial stability.

Just concluding, Sanden requests that the above-referenced items and their related HTS Codes be removed from Section 301 applicability.

If this is not available, Sanden requests that any pre-existing purchase of items in the FTZ inventory prior to the implementation date be excluded from the tariff and be allowed to remain in the FTZ in a non-privileged foreign status. And I'm welcome to take any questions you have. Thank you.

MR. BISHOP: Thank you, Mr. Tuttle. Our next witness is George Carlyle of AlterSciences. Mr. Carlyle, you have five minutes.

MR. CARLYLE: I support the imposition of duties by the United States Government firmly. The United States, since World War II, has worked since World War II to build trading relationships based on reciprocity and nondiscrimination.

This is clearly demonstrated by the

amazingly unrestrictive General Agreement on Trade in Services, the GATS, the country has submitted to the World Trade Organization, WTO. In contrast, our valued trading partner China has one of the most restrictive GATS in the WTO.

How do we encourage our promising and dependable partner to revisit their approach and truly build a win-win trading relationship with the United States?

Despite having almost 20 years to align to the commitments made in the WTO, we continue to get push-back or delays on the execution of the promised commitments. Do they plan to make the promised changes or did they just say them to get into the WTO?

We need to earn the respect of our Chinese counterparts by imposing these tariffs to help them see how serious we are and hold them accountable. Opening their markets is the only realistic solution to our differences and challenges.

As of today, some of the world's best

technology and telecommunication companies cannot compete fully and fairly in China, and this cannot continue. This was an issue prior to China's ascension into the WTO and continues in 2018.

In the packet that I submitted with my testimony, I also included testimony -- an editorial from Nancy Pelosi that she wrote back in 2000. At that time, the United States had a deficit of almost $90 billion with China. Today, it's way further. I encourage you to look at that as you listen to my comments.

Continuing, if the Chinese are serious about creating jobs and opportunities for their citizens, why would they restrict fuller Western investment to make their country better?

The Chinese Communist Party, CCP, at this moment, is not interested in creating a consumer society, but a worker society. We need to encourage our Chinese counterparts to look beyond nationalism and to speed the unhindered development of the vast human capital in their country.

Also in the packet, I have attached a copy of an article from the BBC about the struggles of the young Chinese and their unhappiness. Leisure and recreation are important parts of personal development that should be encouraged to maintain sustainable societies.

And this leads me to my final question, what value is it to have access to a market if the citizens have no time to appreciate or sample the unique products or services non-Chinese firms offer?

In closing, China's unwillingness to work with the United States sends a clear message that we need a different playbook in 2018 to influence them.

And I recommend the application of tariffs on Chinese imports immediately or as soon as possible, with quarterly or semi-annual reviews. Thank you for listening to my testimony.

MR. BISHOP: Thank you, Mr. Carlyle. Our final witness on this panel is Daniel McGahn with American Superconductor Corporation. Mr. McGahn, you have five minutes.

MR. MCGAHN: Thank you for providing the opportunity to testify today on behalf of American Superconductor Corporation.

My testimony today will focus on our unique experience with IP theft and our pursuit of legal actions against the Chinese company that stole our intellectual property. I also want to talk about the administration's proposed actions and restitution for American companies harmed by Chinese IP theft.

AMSC has actively participated in the 301 proceedings since the investigation began in August of 2017. We've provided extensive information regarding the theft of AMSC's technology by a Chinese state-owned enterprise, Sinovel Wind.

Sinovel stole AMSC's property and proprietary software to produce and retrofit its own wind turbines in China. Sinovel also supplied wind turbines containing the stolen IP, which were funded by American taxpayer money, to the Commonwealth of Massachusetts, where AMSC is headquartered.

Sinovel's criminal actions harmed the lives of hundreds of workers, severely impeded the company's growth, and nearly destroyed AMSC. Over 700 AMSC employees lost their jobs. AMSC lost over 96 percent of its stock value, more than $1 billion.

And AMSC lost contracted revenues and profits of over $1.2 billion. The Department of Justice has calculated the damages to be a multiple of this loss, with a maximum fine for the Chinese of $4.8 billion.

China has actually profited from Sionvel's theft of AMSC's intellectual property. Approximately 8,000 Chinese wind turbines continue to operate on AMSC's stolen software. And we estimate that Chinese state-owned power companies benefitted to the tune of $15-20 billion from AMSC's stolen software.

AMSC has never been compensated for its losses, but a recent U.S. Federal Court ruling provides hope for us and for other harmed companies. In January, the jury found Sinovel guilty of stealing AMSC's technology. We are cautiously optimistic that the court will provide restitution to AMSC.

Subsequently, the Department of Justice issued a letter to Sinovel in which it states, and I quote, the United States is exploring all avenues to collect restitution. We see this as an avenue.

Let me now turn to AMSC's pursuit of justice through the Chinese legal system. In September 2011, nearly seven years ago, AMSC filed litigation in the Chinese courts for approximately $1.2 billion in damages. To date, the Chinese legal system has yet to render a decision.

China suggests it has demonstrated its commitment to protect intellectual property rights. For example, in 2014, China established several specialized IP courts to showcase China's commitment to improve IP protection.

In 2015, President Xi Jinping spoke at length on punishing wrongdoers on cyber-theft of commercial secrets and on protecting the lawful rights and interests of foreign companies in China. China's actions showcase the failure of China's legal system.

After AMSC's two criminal convictions, our case becomes a clear opportunity for China to translate its rhetoric into reality. Restitution to AMSC will become a testament, we hope, to President Xi's rhetoric.

Hundreds, perhaps thousands of other American companies likely have gone on or are going through a similar ordeal with respect to Chinese IP theft. We believe direct government-to-government negotiation is necessary to address IP theft and hold China accountable for its practices.

We applaud the administration's

determination to take action pursuant to the Section 301 investigation. American workers, American companies, and the U.S. economy have suffered as a result of China's failure to respect and protect intellectual property rights.

There is an opportunity for the administration and Congress to work together to establish a mechanism to provide restitution to American companies economically harmed by Chinese IP theft.

Funding for such a program would derive from trade sanctions imposed by the President, including the tariffs on imports from China. We would be pleased to discuss these ideas with the administration and members of Congress.

In conclusion, AMSC wants to thank the President and his team for initiating and conducting this important investigation. The U.S. action in response to Chinese IP theft is long overdue.

We've been at this for seven years.

We have two criminal convictions, one in Europe and one in America, and overwhelming facts. If we cannot get restitution, then why would any other American company seek help from the U.S. Government on this issue?

We look forward to working with the administration and Congress to ensure restitution for American companies harmed by Chinese IP theft. Thank you for the opportunity to present our comments.

MR. BISHOP: Thank you, Mr. McGahn. Mr. Chairman, that concludes direct testimony from this panel.

CHAIR BUSIS: Thank you. Mr. McCartin, would you like the first question?

MR. MCCARTIN: Thank you. My question is for --

MR. BISHOP: Can you pull your mic a little bit closer, please?

MR. MCCARTIN: My question is for Mr. Brightbill. You proposed that we add Chinese solar cells and solar modules to the list of products on which we'll be imposing tariffs.

Currently, we already have anti-dumping duties and countervailing duties in place on Chinese solar cells and solar modules. And earlier this year, the United States also imposed global safeguard duties.

Can you describe what the impact would be of adding Chinese solar cells and solar modules to our list of products on which we are proposing to place an additional 25 percent tariff?

MR. BRIGHTBILL: Yes, Mr. McCartin, thanks. We think adding solar cells and modules to the tariff list would have a very beneficial effect on U.S. manufacturing and U.S. workers without harming downstream industries.

It's true that there are duties in effect, both anti-dumping and countervailing duties, as well as safeguard duties, but of course, those remedies address other practices, either the unfair trade, in terms of dumping and subsidies, or a global surge of imports that did include China, but many other countries as well.

So, we think it is fully justified to include those products on the 301 list as well. And we think that the impacts would be very positive.

And of course, I did note also in my testimony that USTR may want to consider additional remedies as well, in addition to tariffs, that would have a direct beneficial effect on manufacturing and U.S. jobs.

MR. MCCARTIN: Thank you.

MS. GREWE: Hi, my name is Maureen Grewe from the Treasury Department. I have a question for Mr. Hayden on behalf of SMT Corp. Could you elaborate for us how the e-waste industry would be impacted by the perspective tariffs on the $50 billion of Chinese exports that are the subject of the hearing?

And do you have any recommendations for how additional restrictions on e-waste could avoid a disproportionate burden on small business?

CHAIR BUSIS: Before you start, we are mindful that you are a fill-in, so you're in a tough spot.

MR. HAYDEN: Yes, if -- I can pass that question on to Mr. Sharpe if you'd like.

MS. GREWE: Yes, that would be helpful.

MR. HAYDEN: I think that might be a little better. That might be the best way to go about it.

MS. GREWE: Sure, if it would be possible for them to maybe address it in post-hearing comments, that would be great.

MR. HAYDEN: Absolutely.

MS. GREWE: Thank you.

MR. MITCHELL: Stevan Mitchell from the Department of Commerce. My question is for Mr. Herrnstadt.

In your testimony, you made the case that when technology is transferred overseas, the skills that accompany the transfer are lost, leading to the further decline in our industrial base. Could you expand upon that comment and why those skills would not continue to reside among the U.S. workforce?

MR. HERRNSTADT: Sure, I'd be happy to. First of all, it's not something new. The claim that I mentioned, the National Academy of Sciences has done quite a bit of work on offsets or outsourcing of our work. Others have done a lot of work on how that has worked to the determent of our industrial base.

Very simply, if you move the production to another country, there's no one here to do the production and you lose a generation of skill-based work. More importantly, in the long run, you lose the industry and at the same time, you also build up your competitors, who will then come back and compete with whoever is remaining.

That's certainly true of China, as China's capacity in terms of aerospace and manufacturing grows, to a great extent to the determent of companies and suppliers here in the U.S.

U.S. workers have been told for years to be quiet when their jobs are transferred to China, that they should be content with the work that remains. Don't say anything, or there will be retaliation or something worse.

And year after year, as more work is transferred offshore to countries like China, manufacturing decreases and our skill base decreases and our infrastructure, in terms of manufacturing, decreases.

And with it, the U.S. jobs, our industrial base, and the innovative technology, which leads to new industries and new employment, also decreases and eventually, goes away.

MR. HERRNSTADT: Thank you.

CHAIR BUSIS: Mr. Amdur?

MR. AMDUR: I have a question for Mr. Watkins.

MR. BISHOP: Could you pull your mic a little closer, please?

MR. AMDUR: Sure. I have a question for Mr. Watkins. So, in your testimony, you said your international supply chain for manufacturing, are any of these products produced in China and one of these inputs be subject to the tariffs?

MR. WATKINS: Yes, sir. In all candor, we manufacture throughout the world. Currently, we have facilities in the United States, in Mexico, in Belgium, in China, in Australia.

But, yes, if we are -- if our finished goods are included, we will be affected by what we manufacture in China. And I am 100 percent okay with that, because what I would instantly do is bring it back here to the U.S. where it belongs.

CHAIR BUSIS: Maureen?

MS. PETTIS: I have a questions for Mr. Carlyle. You testified about the struggles and unhappiness of young Chinese workers. In your opinion, how would the proposed tariff action improve the situation of workers in China?

MR. CARLYLE: Well, I don't know if it will improve their working conditions, but the

Chinese Party's concern with political stability, if we restrict their product from coming in there, that will idle their factories, that will create a motivation for them to change their actions.

If people -- they work long hours. If they have no work at all and no money -- I mean, in the packet, they're making like $500 a month. If they have no income, that would be unacceptable, they would cry for change.

MS. PETTIS: So, you're looking at it in terms of the changes being pushed from the bottom up?

MR. CARLYLE: We consume everything and we drive their economy. If we stop consuming their products, it stops the machine.

MS. PETTIS: Thank you.

MR. O'BYRNE: So, my question is for Mr. McGahn. How do you view the proposed tariff action in the context of AMSC's efforts against Sinovel?

MR. MCGAHN: I think anything that

helps to create leverage in the dialogue. After going through eight years of a lot of scheduled negotiation that clearly haven't resulted in remuneration to our company, that this approach, albeit different, may be the right path to allow for both sides to understand that resolution of IP theft-related issues are in benefit, not only of the United States, but of China as well.

MR. O'BYRNE: Thank you.

MS. HOLMAN: Good morning. My question is for Mr. Tuttle. Mr. Tuttle, can you elaborate on the difficulties of making modifications to your supply chain in response to the proposed tariffs?

MR. TUTTLE: Yes, I can, thank you. I actually had briefed that in my comments, but I had run out of time. So, the biggest problem is that, in order to switch production to the domestic industry, it takes approximately four to five years to bring on a new supplier.

So, without the benefit of being able to use these parts in the Foreign-Trade Zone, it's going to have a severe and immediate impact on the ability of Sanden to produce and sell its products.

In our written comments, we've indicated the time line and the breakdown is as follows. It takes approximately five years, six months for a supplier investigation and negotiation, six months to develop the necessary tooling.

Once that's done, another three months for design validation and testing. And then, once that is completed, then six month customer and vehicle testing and approval. And then, once the part is approved, three months for implementation and contract initiation for the new supplier.

So, overall, the time span to bring on a new part takes approximately five years.

CHAIR BUSIS: Mr. Tuttle, do you have a sense whether your competitors in the air conditioning compressors for the automotive market, whether your competitors also source parts from China and would face the same difficulties?

MR. TUTTLE: Mr. Augustyn would have that answer, but I don't have that visibility. They are concerned that the automotive manufacturers may turn to other sources.

But at this point, we have locked in contracts, so that won't affect our ability to recoup the additional duties, the company will have to eat the increase in duties. And that's going to affect their staffing levels, as well as their investment.

CHAIR BUSIS: All right. So, if you could address in your rebuttal comments whether other -- if you know whether other companies in your industry would face this same type of difficulty?

MR. TUTTLE: Yes, thank you.

CHAIR BUSIS: For AlterSciences, Mr. Carlyle, could you address, you've given a systemic comment, could you address how the proposed action would affect your particular company, if at all?

MR. CARLYLE: I'm sorry, I didn't quite hear you with the noise outside here --

CHAIR BUSIS: Yes.

MR. CARLYLE: -- could you say it again?

CHAIR BUSIS: Could you address whether the proposed action would affect your particular company you're representing?

MR. CARLYLE: Yes. So, currently, I provide software and technology. I partner with Intel, Microsoft, and Adobe, and we work together in that market. I have concerns about protections for my IP.

I currently work through an organization -- so, currently -- let me just say this real quick. Currently, right now, IP disputes, most people handle through the WTO. But the WTO doesn't really have any enforcement power.

Before I had my own firm, I used to work in these huge multinationals and we used an organization called WIPO, which was the World Intellectual Property Organization. They had a dispute resolution system that allowed us to protect our IP better without all the cost.

So, for example, he made the comment that he had to hire lawyers in that country and he had to do a lot of things to protect his IP over there. But if you worked through WIPO, they would recognize your application here in the USTPO in that country and they had penalties if that country would not recognize that. Many U.S. firms don't even know this.

But specifically in regards to me, I do not want to do technology transfer, I am having difficulty finding capable Chinese over there to work with. I do not want to do joint ventures over there.

I would like to be able to go in there as a wholly-owned firm and be in full control of my own destiny. Some of the restrictions in the General Services Agreement, I just find are just unacceptable and we need to do something different.

CHAIR BUSIS: One for Mr. Herrnstadt --

MR. BISHOP: Can you pull your mic a little closer?

CHAIR BUSIS: Yes. Mr. Herrnstadt, so, your union, as I understand it, supports the proposed action on aerospace parts. Are you -- but you're also suggesting additional products to be covered, is that the gist of it?

MR. HERRNSTADT: No, to clarify, one, we're talking about the parts that are mentioned in the HTS Code in the Register. But we also think that there needs to be a close review of all those parts to determine the impact those have on jobs.

Are those parts equipment that's been transferred to China, as part of the forced tech transfer, that has been negatively impacted on U.S. workers? Part of the investigation needs to concern that.

It also needs to concern, are we losing the future ability to engage in those jobs as China develops its own technological ability to compete with that coming back?

And we're also urging USTR, in its investigation and in its review, to ask aerospace companies and suppliers and manufacturers, for that matter, a list of specific parts and equipment, components that have been transferred to China as part of the forced tech transfer of it, that have cost U.S. jobs.

They're the ones who have the list, the complete list, hopefully, not only their list and suppliers as well, and they're the ones that could be able to say specifically what specific item, what specific part, big or small, has been transferred and have left U.S. workers out of work. Thanks.

CHAIR BUSIS: So, we're going to take either a five minute break or a break for lunch, depending on our availability of the next panel. And we would just ask you to hold for at least five minutes. Thank you.

MR. BISHOP: We dismiss this panel with

our thanks and we invite the members of Panel Two to come forward, please.

CHAIR BUSIS: Okay. Since we're ahead of schedule, we're going to have a break for lunch for one hour until noon. Thank you.

(Whereupon, the above-entitled matter went off the record at 10:59 a.m. and resumed at 12:01 p.m.)

MR. BISHOP: Will the room please come to order? Mr. Chairman, our next panel has been seated. Our first witness on this panel is Matthew Ahlin of Pittsburgh Carbide Die Company. Mr. Ahlin, you have five minutes.

CHAIR BUSIS: Wait, before you start, I'm just going to introduce - we have new members.

So before you start, some of you weren't here in the morning when I gave some procedural instructions and I won't repeat all of them, but the main is, the main thing for the witnesses is, as you have been informed, each organization will have five minutes to present their initial oral testimony.

You have a light in front of you. The green light starts and then at four minutes, it will go to yellow, and then at five minutes, it will start flashing red which means you should wind up your testimony.

After you have all given your testimony, there will be questions from the 301 Committee. The questions normally will be directed to a specific person, and please keep your responses concise and recall that you have the opportunity to provide more detail and follow-up information in your written rebuttal comments due May 22.

With that, I think we'll reintroduce the Section 301 Committee again for the public and also for the court reporter. So Alex, do you want to start?

MR. AMDUR: Hi, good afternoon, Alexander Amdur. I'm with the Office of -

MR. BISHOP: Closer to your mic, please.

MR. AMDUR: Okay, good afternoon. I'm Alexander Amdur. I'm with the Office of Trade of U.S. Customs and Border Protection.

MS. PETTIS: Hello, I'm Maureen Pettis. I'm an International Economist with the Bureau of International Labor Affairs at the Department of Labor.

MS. SALZMAN: I'm Rachel Salzman. I'm with the Office of Intellectual Property Rights and the International Trade Administration with the Department of Commerce.

CHAIR BUSIS: I'm William Busis, Office of General Counsel, USTR, and the Chair of the Section 301 Committee.

MR. McCARTIN: Good afternoon, my name is Terry McCartin. I'm the Acting Assistant U.S. Trade Representative for China Affairs.

MS. HOLMAN: Good afternoon, I'm Amy Holman. I'm the Director of the Multilateral Trade Office at the Department of State.

MR. BISHOP: Our first witness on this panel is Matthew Ahlin of Pittsburgh Carbide Die

Company. Mr. Ahlin, you have five minutes.

MR. AHLIN: Good afternoon. I am Matt Ahlin, Vice President and General Manager of Pittsburgh Carbide Die Company. I represent the third generation of our family-owned business. Our company has served the nail and rivet industries in the United States for over 65 years.

We produce the dies and tooling that form finished nails and rivets. We only use American-made tungsten carbide and steel in our products. We are here today representing our manufacturing business and our customers in the United States.

The tariffs imposed on Chinese goods through the 232 and 301 investigations will protect much of the steel industry, but they leave all of the finished products exposed.

Without protection of finished products such as nails and rivets, our customers and our company will continue to struggle. I am here to ask you to include protection on nails and rivets in the tariff coverage.

For the nail and rivet industries, the 232 and 301 tariffs create significant risks. Due to limited supplies, the tariffs have already caused an increase of approximately 25 percent in the prices of domestic rod and wire which are used to produce nails and rivets.

This significant increase translates directly into increased costs for our customers, and in turn, makes them less competitive with imported products. A number of our current nail manufacturing customers are already experiencing a decrease in orders causing them to lay off some employees.

At the same time, the tariffs have caused shifts in supplies across the world with prices of wire rod and wire falling. This translates into lower raw material prices for foreign producers.

Because finished goods are not covered by the tariffs, there is a natural incentive to convert rod and wire into finished products and send the nails and rivets to the United States because there are no 232 or 301 duties on them.

Due to this, imports of finished goods are able to come into the United States at even lower prices and it's difficult for nail manufacturers to raise their prices to cover the increased cost.

If the 232 and 301 tariffs do not cover finished products, U.S. manufacturers of nails and rivets will be squarely in the crosshairs of foreign competition.

I would note that the U.S. nail industry already has been fighting unfair imports for over 10 years and has eight anti-dumping and countervailing duty orders in place primarily because of imports, which had in the past more than 100 significant manufacturers of nails and rivets, now only has a handful of significant producers and several dozen niche and specialty producers.

I have attached to my written testimony a partial list of U.S. nail and rivet manufacturers that are no longer in business or no longer manufacture in the United States.

Of the approximately 70 manufacturers, only three still manufacture, but they do so overseas. Failing to cover finished goods in the 232 and 301 duties makes no sense.

At the end of the day, if finished goods producers fail, the reality is that the upstream steel producers who benefit from the 232 and 301 duties will have fewer customers as well. The flaws I've just talked about will compound with 30 years of intellectual property loss.

Nail machines, rivet machines, and tooling are sophisticated and involve a great deal of intellectual property. We and our competitors in the United States have suffered intellectual property loss for years. We have all sold our tooling to companies that have forwarded this tooling to companies in China and other places to be reverse engineered.

We are not asking for tariffs on our tooling or from our offshore competitors, but on behalf of our customers and the nails and rivets that they produce. They have the same made in America pride that we do and they deserve the same protection being given to the upstream producers.

We would like to continue to make dies for the nails and rivets for American industry for years to come. I have identified the specific items that need to be covered in my written testimony.

Thank you for your time and attention. I am happy to answer any questions you have.

MR. BISHOP: Thank you, Mr. Ahlin. Our next witness is Don Banker of Banker Steel Company. Mr. Banker, you have five minutes.

MR. BANKER: Good afternoon, members of the Section 301 Committee. My name is Donald Banker. I'm the founder, President, and Chief Executive Officer of Banker Steel headquartered in Lynchburg, Virginia.

Let me begin by applauding the administration's continued focus on ending longstanding and inherently unfair trade practices by China. These practices have harmed and continue to harm businesses like Banker Steel.

We manufacture and install fabricated structural steel for the east coast commercial construction market. As one of the largest domestic fabricators in the United States, Banker's 550 workers across Florida, Virginia, New York, and New Jersey have left an indelible imprint on our nation.

It is Banker Steel that serves as the foundation of the Freedom Tower in New York City. The very first beams of structural steel installed at Ground Zero as we recovered as a nation and rebuilt that hallowed site were fabricated at our facility in Virginia.

Our steel is also the backbone of Washington Nationals baseball park just a few miles from where we gather today, as well as the Gaylord Hotel and Convention Center, the MGM National Harbor in Maryland.

We're also rebuilding the Orlando International Airport and building One Vanderbilt Tower, the picture I have in front of me, an extraordinary new building adjacent to the Grand Central Station that will forever mark the New York City skyline.

I share this with you because projects just like these built with steel fabricated here in the United States by our skilled workers are at grave risk today.

To that end, Banker Steel respectfully requests that USTR add several Chinese structural steel products that are classified under the harmonized tariff schedule to the list of products subject to the proposed additional 25 percent duty.

Structural steel fabricators are the intermediaries in the supply chain. We sit between the middle level steel producers and the buildings, bridges, and infrastructure projects that underpin our communities and drive our economy.

This hearing is a continued signal from this administration that our nation's policies can and must finally be changed to address these unfair practices.

The President's decision to impose tariffs under Section 232 of the Trade Expansion Act which protects our steel mills is one we strongly support, and now we need to do even more. We need to defend our domestic steel fabricators as well. The types of projects I mentioned are at risk for a simple reason.

Imports of fabricated steel from China have surged in recent years. This surge is believed to represent nearly 40 percent of all fabricated steel imported into the United States. To be clear, this data likely under reports China's actual share of the U.S. market.

For example, we believe that material amounts of Chinese origin steel are shipped to third countries for processing into building components. They are then imported into the United States under NAFTA with no tariff. Action is needed. Tariffs on Chinese mill produced steel can be evaded without complementary duties on the downstream fabricated products as well.

Imports of Chinese mill produced steel are potentially subject to anti-dumping and countervailing duties, Section 232 duties, and now also Section 301 duties, yet that same Chinese mill produced steel can enter the U.S. duty free if it is also fabricated in China or by NAFTA countries.

This creates a perverse incentive for the project owners to outsource both the mill material and the fabrication of that steel and we need that to change.

This threat is particularly relevant in the context of Section 301. Structural steel is the backbone of our nation's infrastructure system, including buildings, bridges, power plants, water, and other public projects.

The designs and security features of these complex structural steel projects are developed using sophisticated 3D modeling technology. This technology, as the USTR has noted, can be exploited by the government of China. That allows China to compromise the security of our own critical infrastructure.

The U.S. construction market has become a rich target for foreign steel interests, including China. That interest has expanded from exporting milled steel to exporting fabricated steel.

Without action by USTR to add the fabricated steel product HTS numbers to the list of covered products under both Section 232 and 301, this trend will continue. Chinese producers will evade the intent of our trade rules as they seek to avoid the effective tariffs on mill steel products.

We thank this Committee for its work and appreciate the opportunity to share our views today.

MR. BISHOP: Thank you, Mr. Banker. Our next witness is Laurent De Mey of Skyline Steel. Mr. De Mey, you have five minutes.

MR. DE MEY: Good afternoon. My name is Laurent De Mey and I am the President of Skyline Steel, the wholly owned subsidiary of Nucor Corporation.

Thank you for the opportunity to appear before you today to express our support for the President's strong action against China's trade violations and to request that you add steel sheet piling and additional large diameter pipe products to the tariff list.

The relevant HTS numbers are in my written statement. In addition to those, we request that you also add the HTS numbers for steel hollow bar which we will provide in our post-hearing submission.

Skyline Steel has production facilities in Arkansas, Illinois, Mississippi, Ohio, Pennsylvania, and Washington. We have storage facilities, coating and steel fabrication locations for on-time delivery in 35 sites throughout the nation, as well as a broad engineering and seals team supporting the needs of our customers.

Our business is fully focused on supplying engineered steel solutions for the foundation of construction projects. Our markets range from bridge building to port construction, from excavation support to environmental remediation, from foundation of large structures such as high-rise buildings, stadiums, and hospitals to storm protection solutions.

We produce steel sheet piling, threaded bar, hollow bar, strand anchor, and welded structural pipes in diameter ranging from 10 inches to 15 feet in addition to many other steel foundation products.

Unfairly traded Chinese imports have had significant harmful effects on Skyline's profitability, employment, and ability to innovate and invest.

As one example, we permanently had to shut down one of our three pipe production lines at our Longview, Washington facility. This came after losing multiple bids to unfairly traded imports right in our backyard along the Columbia River.

Despite being literally next door, these projects were awarded to Chinese mills offering pipe at much lower pricing than any company playing by the rules could provide. The loss of production obviously means the loss of jobs.

Skyline Steel's sheet piling business has also been negatively impacted. Whether it is for contamination and remediation in Detroit, underground parking garages in Seattle, four projects in Louisiana, or general contracting in New York City, Chinese sheet piles have been sold with low cost in the U.S. market. And even with Section 232 tariffs, Chinese material has continued to materially harm Skyline's business in sheet piling, pipe piling, and hollow bar.

Simply said, Chinese imports have continued to undercut producers in the United States leading to few projects for Skyline and the rest of the U.S. steel industry.

As USTR found in its Section 301 report, imports from China has been fueled by the Chinese government policies and unfair trade practices. Skyline is pleased that the U.S. government will impose an additional duty of 25 percent on certain Chinese origin products to help address these unfair and illegal practices.

We urge USTR to also include sheet piling and other large diameter pipe products and hollow bar on the list of Chinese products subject to the duty. These products fall squarely within the USTR's criteria.

First, as the U.S. government is well aware, these imports benefit from the Chinese government's distortive industrial policies, including steel industry's specific five-year plans and Made in China 2025.

In addition, tariffs on these products are not likely to disrupt the U.S. economy because there are multiple U.S. producers and alternative non-Chinese import sources for these products.

Imports of these sheet piling and pipe products total approximately $37 million. While this may be a small portion of our total trade with China, the impact on U.S. manufacturers and workers is huge.

American workers, including our Skyline Steel teammates, cannot continue to lose high-paying jobs because of China's industrial plans, technology transfer policies, cyber theft, and illegal government subsidies.

Skyline can compete and will compete with any steel producer in the world, but we need a level playing field to do so. Thank you for taking the steps to address Chinese unfair trade practices.

MR. BISHOP: Thank you, Mr. De Mey. Our next witness is Robert Griggs of Trinity Products, LLC. Mr. Griggs, you have five minutes.

MR. GRIGGS: Good afternoon. My name is Robert Griggs. I'm President and founder and Trinity Products. I appreciate the opportunity to be here and I thank the USTR and all those involved in its Section 301 investigation for taking critical steps to address China's unfair practices.

Trinity fully supports the duties on Chinese products being imposed under Section 301. We also ask that the USTR cover steel sheet piling and additional large diameter pipe products classified in HTS numbers 3101.10.00, 7305.31.40, and 7305.39.10 under the Section 301 duty.

First, some background on our company, in 1979, my business partner and I founded Trinity Products in St. Charles, Missouri. We began as a steel broker, but soon added fabrication facilities.

In 2000, we adopted an open book management philosophy of running our business, sharing up to 20 percent of the profits with each and every employee.

In 2006, we started construction of a new state-of-the-art spiral well pipe mill, and one year later, we produced our first piece of pipe. Today, we just rolled our 67,541st piece of pipe.

I have invested everything that I have in Trinity Products and not just financially. Trinity is a family operation. I have worked closely with both my sons. I owe it to myself, my family, and roughly 160 employees to do everything in my power to make sure that we succeed. That's why I'm here today.

We have always played by the rules, but unfortunately, others do not. Chinese imports in particular are injuring our industry.

As explained in the USTR's detailed report, these imports from China are encouraged by Chinese government policies of unfair practices with respect to technology, intellectual property, and innovation.

Trinity supports the government addressing these harmful practices by imposing an additional duty of 25 percent on many Chinese products, including steel products. It's very important to Trinity and our industry that the USTR also include sheet piling and additional pipe products on the Section 301 list.

U.S. imports from China under these three relevant HTS numbers accounted for about $37 million in '17. That was a 320 percent increase just one year prior in '16. Chinese imports of sheet piling and these pipe products increased even more in the first quarter of '18 compared to the same period last year.

This is undoubtedly the result of the Chinese government's illegal support of Chinese producers of steel products like sheet piling. Adding sheet piling and pipe to the 301 list would directly address China's unfair trade practices and their adverse impact on the U.S. economy.

USTR has noted in Section 301, duties will be imposed on products that benefit from Chinese industrial policies, including Made in China 2025. For decades, the Chinese steel industry has benefitted from policies of the

Chinese government, including five-year plans specific to the steel industry.

The Made in China 2025 policy also specifically addresses the steel sector and the technological road map for Made in China '25 priority sectors. At the same time, these tariffs are not likely to disrupt the U.S. economy as there are U.S. and alternative product services for sheet piling and pipe.

Unfair imports of these products from China have seriously harmed Trinity's operations. For example, in January of 2017, we lost a large dredging job in New Orleans to China. This was a $3.5 million project that Chinese producers won by selling their pipe at roughly the cost of our raw materials, hot rolled coils.

These kinds of losses have left us with no choice but to cut our production, let go a large percentage of our work force. We have also been forced to cancel planned modernization and expansions which would have allowed us to hire more employees.

With all of these, I have come to a crossroads. Do I want my family to stay in the steel pipe business after 40 years? With the Chinese government subsidizing their steel industry without a level playing field in the United States, first, why would I invest more capital in this industry?

Secondly, how could I allow my family to continue in this industry where we are cheated each and every day? It is unacceptable to be losing work in our backyard to China when it doesn't play fair.

I implore you to do the right thing to help fix this wrong now. Trinity thanks the USTR and other government agencies involved in this investigation.

MR. BISHOP: Thank you, Mr. Griggs. Our next witness is Robert Kopf of the United States Steel Corporation. Mr. Kopf, you have five minutes.

MR. KOPF: Good afternoon. My name is Robert Kopf and I am the General Manager of

Business Support for United States Steel Corporation. I appreciate the opportunity to appear today in support of strong and comprehensive action under Section 301.

As a direct victim of the Chinese government's cyber attacks, U.S. Steel strongly supports the administration's proposal to take action under Section 301.

As someone who has been actively involved in all aspects of our tin mill products business, I appreciate that the administration has included imports of certain tin mill products from China on its proposed list of products that would be subject to tariffs.

U.S. Steel however respectfully requests that the Trade Representative update that list to include all of the HTS statistical reporting numbers for tin mill products to better reflect the administration's intended relief and avoid circumvention.

The proposed list inadvertently omits two tariff subheadings that also cover sizable imports of tin mill products from China as illustrated in the table in our written comments.

The Trade Representative determined that China conducts and supports unauthorized intrusions into and theft from U.S. companies' computer networks to access their sensitive commercial information and trade secrets. U.S. Steel itself has been targeted by cyber hacking attacks.

In May 2014, the U.S. Department of Justice announced the indictment of five Chinese military officials from the intelligence component of China's PLA for cyber intrusions and economic espionage directed against U.S. firms including U.S. Steel.

A separate incident resulted in the theft of highly sensitive commercial secrets regarding U.S. Steel's development of advanced high-strength steels.

These cyber thefts are part of a larger program by the government to China to leverage all resources to achieve technological breakthroughs in key areas, promote import substitution, rely on Chinese products to meet growing demand in China, and promote Chinese industries to dominate the home and global markets.

Steel and many of the sectors it serves are among the 11 sectors that the government of China identified as priorities for international expansion in May 2015. State-owned enterprises are also responsible for many of the largest overseas transactions.

For these and other reasons, the Trade Representative proposed imposing an additional 25 percent duty on products imported from China under certain eight-digit subheadings.

U.S. Steel has supported the Section 301 investigation since its initiation and encourages the administration to take strong action to remedy the government of China's unfair practices, including the cyber intrusions into U.S. commercial networks that have directly impacted U.S. Steel.

Thus, U.S. Steel greatly appreciates the Trade Representative's decision to include various steel products, including certain tin mill products on the list of proposed products. As the nation's largest producer of tin mill products, we deserve Section 301 action for several reasons.

The Section 301 action is intended to complement existing trade remedies. Due to surging imports of tin mill products, including from China, however, the domestic industry has massive unused capacity. This industry is near the top of the steel value chain involving high levels of technical know-how to produce.

High levels of aggressively low-priced imports and massive unused capacity complicate important efforts to further develop domestic capacity for additional advanced tin mill products.

To provide the intended relief and avoid circumvention of the Section 301 action, the administration needs to update the proposed

Section 301 list, which in its current form inadvertently omits two tariff subheadings that cover sizable imports of tin mill products from China.

Including these two additional subheadings will provide more relief to U.S. commerce as well as more leverage to address the Chinese government's unfair trade practices.

Thank you for the opportunity to testify today and for your attention to this matter. I look forward to answering your questions.

MR. BISHOP: Thank you, Mr. Kopf. Our next witness is Jeffrey Sterner with High Industries Incorporated. Mr. Sterner, you have five minutes.

MR. STERNER: My name is Jeff Sterner and I am the President and Chief Operating Officer -

MR. BISHOP: Pull your mic closer if you would, please.

MR. STERNER: Okay, thank you. My

name is Jeff Sterner and I'm the President and Chief Operating Officer of High Industries based on Lancaster, Pennsylvania. High is one of the largest fabricators of steel bridges in the United States and is a member of the Board of Directors of the American Institute of Steel Construction.

I'm here to request that the administration add the principal HTS codes for fabricated structural steel, 730810 and 730890 to the Section 301 tariff list.

Steel assemblies that fall under these two codes represented $831 million of imports in 2017 or nearly two percent of the Section 301 target value. Adding these codes is critically important because the U.S. structural steel supply chain currently suffers from the effects of unfair Chinese industrial policies related to steel production and fabrication.

Because our nation has ample domestic capacity to meet the nation's demand for fabricated structural steel, including fabricated structural steel in the 301 tariff list would cause minimal consumer impact and no greater disruption to the U.S. economy than the tariffs already applied to imported mill steel under Section 232 and various other trade orders.

The tariffs would also have little impact on U.S. consumers because fabricated structural steel is not a consumer-oriented product.

Structural steel fabricators are the manufacturers in the supply chain who cut, drill, bolt, and weld the steel shapes and plates produced by steel mills to create the actual bridges, buildings, and infrastructure projects that use structural steel.

While major steel projects have historically been fabricated in American plants, our trade policies have made the American construction market a rich target for foreign steel interests. They have expanded from just exporting mill steel to exporting fabricated steel to evade and dilute the effect of tariffs.

In the past five years, imported fabricated structural steel has increased by 136 percent, far exceeding the growth of the U.S. construction market. The U.S. structural steel fabrication industry is running at a 63 percent capacity utilization rate.

There is nearly four million tons of excess capacity in place to meet current domestic demand for fabricated structural steel. In fact, there is enough capacity to meet any increase in demand that results from additional investment in infrastructure projects and the projected increases in private construction activity.

Structural steel is the backbone of our nation's infrastructure system. It includes buildings, bridges, power, water, and other public projects.

By excluding tariffs on fabricated structural steel under the Section 232 order, a major portion of the structural steel supply chain was left unprotected allowing China to circumvent the mill steel tariffs.

Including fabricated steel assemblies in any action taken under Section 301 would close the 232 circumvention loophole and protect U.S. businesses in the design and construction industries.

The value of the current list of products benefitting from Chinese industrial policies is roughly $50 billion. In 2017, nearly 500,000 tons of fabricated structural steel were imported into the United States from China valued by U.S. Customs at over $831 million.

AISC believes these import values are very conservative because they do not take into account fabricated steel that is rolled in China and then transshipped into the United States through other countries that are not subject to the tariffs.

The Section 301 schedule already includes 132 HTS codes related to steel, many of which represent products used in the construction industry. However, it does not close the circumvention loophole left open by Section 232 because it does not currently include the codes for fabricated steel assemblies.

Adding fabricated steel assemblies under HTS codes 730810 and 730890 would be a logical extension of other tariffs already in the proposed Section 301 schedule in addition to those in the Section 232 order. It will add the real teeth to the effort to curb China's policies and practices that adversely impact domestic steel fabrication and production. Thank you.

MR. BISHOP: Thank you, Mr. Sterner. Our final witness on this panel is Thomas Fish of Anvil International. Mr. Fish, you have five minutes.

MR. FISH: Thank you to the Office of the United States Trade Representative and the Section 301 Committee for conducting a hearing on this important topic and for giving me the opportunity to speak with you today.

My name is Tom Fish. I'm the Chief Executive Officer of Anvil International. Anvil manufactures steel and iron products that connect and hang pipe, including pipe fittings, couplings, nipples, and hangers. We operate eight U.S.-based manufacturing facilities located in Alabama, Pennsylvania, Rhode Island, Tennessee, and Texas, and we currently employ 1,500 people.

Anvil has been in the business of connecting and hanging pipe for over 165 years. I have worked at Anvil or its predecessor companies for the last 35 years serving as its President and CEO for the last 17.

Over this 17-year time period, the footprint of U.S. manufacturing has decreased significantly. Many U.S.-based companies have either moved their manufacturing operations offshore or simply found foreign companies to manufacture their product for them.

Anvil has certainly had to react to this changing environment. We have consolidated manufacturing facilities as required and now offer both domestic and internationally sourced product. We are proud to point out that still 80 percent of what we sell today is domestically manufactured product.

Despite this fact, the demand for U.S.-based manufactured product is down about 60 percent since calendar year 2000, and the sale of similar Chinese product has skyrocketed.

The recently announced tariffs of 25 percent on steel-based products from China presents yet another challenge for Anvil and other similar U.S. manufacturing companies. The U.S. cost to procure steel raw materials that go into making nipples, couplings, and hangers have already gone up by 25 percent in the first quarter of 2018 as a result of the new tariffs.

These raw material costs make up 50 to 60 percent of the total cost of our finished product. Chinese manufacturing companies have access to lower cost steel raw materials that are subsidized by their government.

As a result, we are seeing finished Chinese nipples, couplings, and hangers being sold in the U.S. for less than Anvil's variable cost to manufacture the same product. There is no way that any U.S. producer, no matter how efficient or cost effective, that they can compete with this over the long run.

Anvil supports the Committee's proposed imposition of Section 301 tariffs, but we want to make sure it's done in a way that's not going to put the U.S. manufacturers like us in an even worse position.

I'm going to show you here some samples of our products, and I'm not going to stand up because I don't know how to move that microphone, but basically pipe threaded on the outside, nipples. This is 12 inches. If it were one inch longer, 13 inches, it would be pipe which would be subject to some of the tariffs that we have today.

Pipe couplings also, just a little different, threaded on the inside, and of course we have pipe hangers basically made from plate steel, stamped and assembled here in the U.S. in Tennessee for us.

So to summarize, our ability to compete with Chinese manufactured pipe nipples, couplings, and hangers is facing a significant challenge. We're being, in fact, squeezed at both ends. The Section 301 proposed tariffs will result in an increase, and already have, in our manufacturing costs.

At the same time, excluding the same Chinese manufactured products from the 301 tariffs will give the Chinese a further cost advantage and will incentivize them to shift their production downstream from pipe, which is subject to tariffs, to pipe nipples, couplings and hangers not subject to tariffs.

It is for these reasons that we ask you to consider including pipe nipples, pipe couplings, and pipe hangers on the list of products to which the Section 301 tariffs would apply. These products are included in the HTS subheadings identified in our written submission and they accounted for about $542 million of imports from China in 2017.

A 25 percent tariff on these subheadings would go a long way to leveling the playing field and allowing Anvil to maintain its current market share and potentially to regain some of the market share it has lost to China over the past two decades.

Anvil also believes that including those tariff subheadings in the Section 301 list would not cause disproportionate harm to the U.S. interests. The consumers of these products are primarily commercial builders.

The cost of these products that we are asking to be included represent only a tiny fraction, less than one percent of a commercial building.

Moreover, Anvil is not operating anywhere near its manufacturing capacity and we could easily add a second or third shift without any additional capital.

Even if the 25 percent tariffs were imposed on Chinese nipples, couplings, and hangers, these Chinese products would still be competitive in the U.S. market, the only difference being that the competition would be on a more level playing field.

I thank you for your time and your continued efforts on behalf of the interests of U.S. manufacturers and their workers.

MR. BISHOP: Thank you, Mr. Fish. Mr. Chairman, that concludes direct testimony from this panel.

CHAIR BUSIS: Mr. Banker, did you in your written comments or in your oral comments identify the HTS numbers of the fabricated steel that you're interested in?

MR. BANKER: Yes, we did.

MR. McCARTIN: I'd first like to thank all of the witnesses for coming to Washington and sharing your information and your perspectives.

MR. BISHOP: Could you please identify yourself for the court reporter? Thank you.

MR. McCARTIN: I'm Terry McCartin, Acting Assistant U.S. Trade Representative for China Affairs.

MR. BISHOP: Thank you.

MR. McCARTIN: My question is for Mr. Fish. You proposed that we include on our tariff list three categories of pipe products that you manufacture. I have two questions. One, how are other manufacturers, U.S. manufacturers of those particular products, impacted, and do you anticipate that they would agree with your views?

My second question is can you elaborate a bit on the impact on U.S. consumers other than commercial builders?

MR. FISH: Okay, the first question, I believe that other U.S. manufacturers of this product would be impacted the same way we are.

It's going to cause an increase in their raw material costs, and so therefore, we would need, to maintain our profitability or be able to succeed, we would need to increase our prices, wherein the price of the product from China is not increasing at all. We have already seen that in the first quarter of this year.

As to the second question, say that -

can you give that to me again?

MR. McCARTIN: In your testimony, you mentioned that this would - putting the duties in place would not have a significant impact on your primary consumers who are commercial builders. I'm just asking about other U.S. consumers of your products and how the tariffs might impact them.

MR. FISH: The other U.S. consumers would be impacted, that would be impacted are probably the consumers who purchase their products from either Home Depot, or Lowe's, or one of the do-it-yourself hardware situations.

The fact of the matter is those products, depending on what Home Depot and Lowe's would want to do, would ultimately probably increase as well, but a typical consumer going in to buy those products would buy one or two, and sometimes you buy two or three of different sizes because you don't know what you need.

The bottom line as it relates to that piece of the business is that we at Anvil used to supply Home Depot and Lowe's. What happened was they took that business overseas and simply got a lower cost, but the price to the consumer never changed, so it's kind of an ironic situation that we have here.

One of my favorite things to do is to go into Home Depot and ask the manager of that aisle where the domestic product is. He has a very difficult time answering that question.

MR. McCARTIN: Thank you.

MS. SALZMAN: Rachel Salzman from the Department of Commerce. This is a question for Mr. Banker.

MR. BISHOP: Can you pull your mic a little closer, please?

MS. SALZMAN: Sorry, Rachel Salzman from the Department of Commerce. This is a question for Mr. Banker. I wanted to know approximately how long it would take you to ramp up capacity to meet the domestic demand of fabricated structural steel if that item is included on the tariff list?

MR. BANKER: We have the plant capacity. It comes down to human capital to be able to ramp up and that does take time training people that have left the industry, getting young people interested in the industry, but we've done some very unique things with that.

In both Virginia and New Jersey, we've gotten the Labor Departments there both involved in funding training programs specific for blue collar labor in our industry, so we feel like we could do that pretty rapidly. In six months to a year, we could be at greater than full capacity.

CHAIR BUSIS: It would be helpful if in your rebuttal testimony you also estimate how many additional jobs that would involve.

MR. BANKER: If we were to go and use our full capacity, we could almost double our work force from 550 to 1,100 employees.

MS. HOLMAN: Good afternoon. I'm Amy Holman from the Department of State.

My question is for Mr. Sterner. What would be the impact on downstream industries in your sector if tariffs were placed on fabricated structural steel? Thank you.

MR. STERNER: The bridge industry in the United States already is subject to the Buy-America Act so we do not pay any tariffs on the raw material that we purchase. However, there is an impact as the -- there's that blend of domestic and international product that comes into the United States and it has increased the price of steel plate which is our raw material at some level. It's now stabilized after some period of volatility with the new announcement of Section 232. So, we don't see any other further impacts of Section 301 in the bridge industry because we uniquely have the Buy-America Act in our FHWA regulations.

MS. HOLMAN: Thank you.

MR. AMDUR: I'm Alexander Amdur with the U.S. Customs Border Protection.

I have a question for Mr. Ahlin. So, I realize that your company is the producer of the guides in tooling for the nail and rivet industry. I have a question about your customers.

MR. AHLIN: Okay.

MR. AMDUR: You mentioned that there's two American manufacturers of finished nails and rivets.

MR. AHLIN: Yes.

MR. AMDUR: But if these items are subject to increased tariffs, will there be sufficient to domestic capacity to meet domestic demands for these products.

MR. AHLIN: They're running at probably about 15 to 20 percent capacity. I'll have to ask them but they could really ramp up and they have the manufacturing capabilities to do a large quantity more daily. And we'll put that in the rebuttal comments.

MR. AMDUR: Great. Thank you very much.

MR. AHLIN: All right. Thanks.

MS. SALZMAN: I have a question for Mr. De May. What would be the impact on downstream industries be in your sector if tariffs were placed on tiny sheet piling and other large diameter pipe product?

MR. DE MAY: Well, I don't think there would be any impact on the projects themselves. So, we deliver to contractors who will immediately install the project -- the steel, the sheet piles and the pipe into projects like port construction, these kinds of things. And I think those jobs will be able to move forward. That's not a change. I think the change is that at least we'll have a level playing field. So, in other words, we today can really just not compete for those numbers anymore and if we don't do so we will not be able to be there when we really are needed. And some of these things are really critical. There's really critical -- when I described in my testimony here an example of remediation site in Detroit. Well, these things can be really critical. It could be really contamination that we need to be able to -- and so that probably is something that we need to think about. But would the end market change for that, would it be impacted? I don't think they will be impacted. They are plenty of sources domestically. There's plenty of sources internationally but they're not acting the same way that China is.

MS. PETTIS: This is a question for Mr. Griggs. I'm Maureen Pettis from the Department of Labor.

Approximately how long would it take you to ramp up capacity to meet domestic demand if tariffs were placed on Chinese steel piling and other large diameter pipe projects.

MR. GRIGGS: Tomorrow. We are running at slower speeds. We're running 24 hours a day four days a week. We have the capacity to run two more days a week. We've just been devastated by the Chinese selling material at their cost. And, you know, I would like to say this. This is what I've been told. On this 25 percent that we're talking about in the 232 I was told by my customers that Chinese suppliers representatives said they would absorb that 25 percent today with not one effect on them. So, we're looking at when you talk about 25 percent that will not stop this and that's the reason that we need to keep looking and keep talking and discussing what's happening. So, we could make-- we could add 25 to 30 percent to our capacity as long as we can get hot rolled steel in a month.

MR. McCARTIN: Let me just ask one more follow-up question.

You mentioned in your testimony that you've been forced to cancel planned modernization and expansions. What would your plans be in that regard if these additional products were put on the tariff list?

MR. GRIGGS: We have done a -- two years ago we had done a study for a cold form sheet mill and the capital expenditure was too much and with the foreign competition the numbers just didn't look right. We had also wanted to expand and put a hydro tester in and some other things in our plant and it just didn't make sense. We continually -- you know, in my testimony for the 203 we lost the Holland Tunnel project. We have a transloading facility 70 miles from there. We ship from St. Louis on the NS. We get a really wonderful rail rate from there. $50 a ton and we lost that to parts of Chinese steel by 12 percent. So, there's just places. Last year we lost $35 million in about a hand full of projects that would have had us at capacity. Okay. We did not bonus out last year to share the 20 percent that I said that I told you that we share with our employees. We're an open book management. We haven't done that over the last several years just because of the competition on the pricing.

One thing that everybody needs to understand, even if they don't get the order what they do is they force your customer to leverage that price against you. So, what we see is reduced margins and so even if they give us the order we still have to match those prices. So, whether the foreign steel gets it or not just them being in the marketplace with those ridiculously low numbers force us to be at those bottom margins.

CHAIR BUSIS: Mr. Kopf, it would be helpful if you could briefly describe to the committee what the end uses of the tin mill products are that you covered in your testimony.

MR. KOPF: Sure. Thank you for the question. Rob Kopf with U.S. Steel.

Most of the tin mill products that we produce find their way into canned goods, largely food canned goods. There are other applications such as oil filters, window spacers, decorative cans, those kinds of things that are also produced out of the products that we make.

MS. SALZMAN: Thank you, Mr. Kopf. A follow-up on that.

What would the estimated impact be on U.S. consumers if a comprehensive list of tin mill products were being included in this tariff list?

MR. KOPF: Thank you for the question.

Rob Kopf with U.S. Steel.

This market for tin mill products here in the United States is very competitive. There are very recent reports that you can see in the recent ITC Staff Report that this industry operated at less than 50 percent capacity utilization over the past couple of years. There is ample capacity in this country to produce much more product than we are producing today across the board at all producers and I believe that in all those cases we would be -- any incremental business that were to come our way we would be going at tooth and nail like we always do with our competitors. And the customers of our products are very shrewd buyers. I'm sure they would find a way to really have no impact on the price of tin plate that they would pay to us for any incremental volume that was coming our way. So, I don't believe there would be any impact at all.

MR. BISHOP: We thank this panel. You are free to go and we would invite our next panel to please come forward and be seated.

(Whereupon, the above-entitled matter went off the record at 12:52 p.m. and resumed at 12:55 p.m.)

MR. BISHOP: Before we begin this panel I would invite the members of our next panel to come sit in our reserved witness area. Thank you.

If the room would please come to order.

Our first witness on this panel is Mary Buchzeiger of Lucerne International. Ms. Buchzeiger, you have five minutes.

MS. BUCHZEIGER: My name is Mary Buchzeiger and I'm the President and CEO of Lucerne International, a global automotive supplier headquartered in Auburn Hills, Michigan.

I'm a proud Republican and I thank you for the opportunity to participate in this public comment period.

Lucerne is a supplier of cast, forged and stamped components and assemblies to the automotive and heavy truck industries. We are a growing company located in Auburn Hills, Michigan.

In 2008 when I took over the business our sales were under $2 million and in 10 short years we've grown sales to over $35 million. And with current contracts we'll be well over $50 million next year.

Our workforce is just over 40 people with plans to expand by over 25 percent in the coming year, that is, unless Washington gets in my way.

The tariff proposed by President Trump would cripple my business and many like it in the Midwest. The beating heart of what often is called Trump Country would be stifled by the unintended consequences of these tariffs. I'm sorry if it sounds harsh but it's true. I'm fighting for the life of my company and the livelihood of my employees and I'm fighting to protect an intricate auto supply chain that creates hundreds of thousands of U.S. jobs.

Among many other parts we produce all the hinges for the Jeep Wrangler. We've been producing the door and hood hinges since 2005. We were recently awarded the Next Gen Contract and we have 28 parts in every four-door vehicle rolling off the assembly line in Toledo. This business amounts to roughly 30 million of annual revenue.

We won the contract because Lucerne is one of the only company in the world that produces Class A forgings. Our process combines the strength of forged steel and aluminum and the subtly of fine art to produce polished perfect hinges for the Wrangler's outer body. And we're damn proud of this work.

Overseas we have seven long-term strategic manufacturing partners where these hinges are manufactured. They are then shipped to my plant in Auburn Hills, inspected, repackaged and sent to another plant in Milan, Michigan, where they are assembled before finally being shipped to Toledo to be put on the Jeep.

That's the supply chain. Thousands of American jobs and billions of American dollars and now it's all in danger.

According to HGS Subheading 83021030-I inner seal aluminum or zinc hinges designed for motor vehicles, we could now be subject to an additional 25 percent duty. If that happens my plants in Asia will pass those costs on to me. I'll attempt to pass the increased costs on to my customer but the customer will then seek other suppliers overseas because there is no capacity here in the U.S. to produce these parts and I can't swallow these costs. I don't have that kind of margin in this program. I will essentially be forced out of business.

Make no mistake, this duty aimed at Asian companies is effectively a 25 percent tax on my company.   More than a dollar out of every 2,000 of this proposal has a direct effect on my small woman-owned business in Michigan.   And I resent it. I'm angry. I'm frustrated and honestly I'm scared. I'm scared that my

President is about to make a terrible mistake. Scared for my employees who love their jobs, who make good money, who get their tuitions paid should they choose to further their schooling. Scared for my community and my country which is about to be blind-sided by a bad policy forged with best intentions.

I agree with the President and I think he's right. The trade deficit needs to be tamed. But, please, not this way. Not on the backs of my employees and the future of our growing business. And I'll address the elephant in the room.

Yes, these products produced by Lucerne are manufactured in Asia and frankly I'm proud of that. I'm proud of the partnership forged on years of travel to build a Michigan-based business and take it global. I'm the mother of three young children. I spent so much time on the road away from my kids, away from my husband that sometimes I tell people my forwarding address is Delta 9A.

I have sacrificed so much over the years and put in so much time, busted my butt to make this business what it is today and now it's all in jeopardy.

Would I like to move manufacturing back to the U.S.? Absolutely. As a matter of fact when this contract came up for renewal in 2015 we systematically looked at every forging plant in the United States and just recently went through this exercise again as a back-up plan. We have yet to find one manufacturing facility here that has the capacity to take on even one part number that we produce. Because of this prior to the proposed tariffs being announced, I started exploring opening my own forging plant in Flint, Michigan. I've got a strategic plan laid out. I'm in negotiations with investors and I'll be in talks with the local government soon, but this takes time. Much more time than allowed under the Administration's trade strategy. And I certainly won't be able to forge forward with these plans if I'm forced to hang an Out of

Business sign on my front door.

I truly wonder. Does President Trump know that these tariffs threaten the livelihood of so many American businesses. I don't think he does. Because I know that my President cares and I've got to believe he'll change his mind, amend this policy, grant Lucerne an exclusion and help companies like ours make America great again.

Thank you.

MR. BISHOP: Thank you, Ms. Buchzeiger.

My next witness is Jonathan King of TCL North America. Mr. King, you have five minutes.

MR. KING: Good afternoon, ladies and gentlemen. My name is Jonathan King and I'm the Vice President of Legal Affairs for TCL North America, the independently operating U.S. television subsidiary of TCL Corporation.

I'm here before you today to respectfully request that televisions be excluded from the proposed 25 percent tariff on products imported into the U.S. from China. Specifically, HTS category number 8528.72.64.

TCL designs, manufactures, markets and sells TVs in the United States and is America's fastest growing TV brand. TCL is fully licensed for all essential intellectual property, creates jobs and opportunities, has a strong record of environmental sustainability and has earned a tremendous reputation among its U.S. technology partners and consumers.

TVs may have changed over the years since the introduction of over the air broadcasts and the advent of the Internet but it is still the cornerstone of the American home now more than ever.

The majority of the TVs sold in the U.S. originate from China, more than 18 million in 2017. TVs from China are predominantly high quality, feature rich affordable TVs that enable the American consumer to enjoy entertainment and obtain information at a far lower cost than TVs from Japan and Korea. They are also increasingly Smart TVs, employing emerging technologies, systems, and intellectual property developed and owned by American companies and offered to consumers at a substantial value. In fact, studies show that TVs manufactured in China have an average unit value of just under $200 while those from Japanese or Korean companies are far higher priced models. Directly stated consumers shopping for a TV manufacturer in China are not the same consumers buying Korean or Japanese TVs. Any tariff imposed on these goods will directly result in the unintended consequence of causing a significant reduction in the availability of affordable models, decreasing cost savings and choice for Americans. The application of these tariffs will result in a combined 28.9 percent when added to existing duties effectively increasing consumer prices for most models of TVs between $50 and $200, while reducing consumer demand. Affordable quality TVs for Americans will quickly become out of reach.

Although one of the alleged aims of the tariffs is to enable a return of manufacturing to America's shores, it is paramount to note that this is not true of the TV manufacturing sector. The notion that TV manufacturing can move from around here to there and quickly emerge in another country or here in the U.S. for that matter is simply not feasible. There is currently no TV manufacturing in the United States. Some companies taking advantage of State incentives while circumventing current tariffs either assemble or have announced plans to do so in America. I would caution you that assembling is not manufacturing. These companies offer a low number of assembly jobs with no technology or value added, and the very TVs they are assembling are actually manufactured in China by another company and shipped as a kit to be assembled together.

The manufacturing process is complex involving multi-billion dollar panel factories, technology licensing, quality and ethical raw material suppliers, research and development, environmental and sustainability concerns, vertical integration and complex logistics in addition to qualified and accredited pools of talent.

Another misconception is the notion that goods imported into the U.S. from China only benefit China and this could not be further from the truth in this industry. Although we build TVs in China we design them here, we support them here and we sell them here. Our jobs are here. Our technology partners including many of whom you'll see in the coming days are here. Our patent and technology licensors are here. The vast majority of the benefits are truly felt right here.

The negative impact of the imposition of tariffs will have long-term consequences causing disproportionate economic harm to millions of Americans while simultaneously disrupting markets injecting uncertainty into those markets and losing American technology market share.

A recent study shows that tariffs

targeting just the first fifty billion dollars in goods will cause the loss of nearly 134,000 jobs. The conclusion drawn from this study says that the proposed tariffs would and I quote "Have significant net negative impacts on the U.S. economy and U.S. workers. These impacts will be felt in nearly every sector in every U.S. State." In partnership with other American success stories employing hundreds of American workers we've been able to offer low cost quality feature rich TVs to fill the needs and wishes of millions of Americans. TCL has worked hard to achieve its market position. The tariffs could certainly present challenges to many companies that have worked so diligently to earn their brand recognition.

We are respectfully requesting that this honorable committee take a closer look at the TV market. When you see for yourself the potential consequences the tariffs will have, we firmly believe that you will see the wisdom of leaving these products off the tariff list. We also hope you'll take a closer look at our company to see what American workers can achieve when they dedicate themselves to caring not to just about quality products but also about our communities. We urge you to keep TVs off the tariff list.

Thank you for your time.

MR. BISHOP: Thank you, Mr. King.

Our next witness is Aaron Lowe of the Auto Care Association. Mr. Lowe, you have five minutes.

MR. LOWE: Good afternoon. My name is Aaron Lowe and I'm Senior Vice President for Regulatory and Government Affairs for the Auto Care Association.

The Auto Care Association is the voice of the $381 billion auto care industry. Our nearly 3,000 member companies represent some 150,000 independent automotive businesses that manufacture, distribute and sell motor vehicle parts, accessories, tools, equipment, materials, and supplies, and perform vehicle services and repairs.

Our industry represents a significant sector of the U.S. economy employing 4.6 million people or 3.2 percent of the workforce. Our members include businesses with global operations that depend on well-established integrated supply chains to increase competitiveness and product offerings for our member customers.

The Auto Care Association supports the Administration's efforts to address China's unfair trade policies that discriminate against and restrict U.S. commerce to force technology transfers, data localization and lack of enforcement. We continue to work with our members to address a number of intellectual property concerns as it is often a company's most valuable asset and competitive edge supporting jobs and driving economic growth. However, as a manufacturing hub and an important source of imports China is also a critical trading partner in our industry supply chain. We are concerned with the Administration's recent proposed action to impose an additional duty of 25 percent on certain products imported from China. There are a number of automotive parts and components included on the proposed tariff list that although imported support U.S. jobs downstream throughout the U.S. supply chain.

Sourcing determinations are made months and years in advance leaving minimal adjustments to tariffs that force our members to modify their supply chains, find new sources for parts, face new capacity or quality issues and likely pass the increased costs downstream to the consumer.

All of these factors and disruptions could cause companies to be less competitive in the U.S. and in the global markets, even force them to cease operations. Additionally, China's announcement of retaliatory tariffs on goods in the U.S. is also of concern as China's large population and growing economy have made it the fastest growing market for U.S. exporters in the last decade and third largest market for U.S.

exports of auto parts in 2017.

China's amount of vehicles and operation is growing the largest in the world with vehicles requiring repairs currently growing at a rate of double digits. Our members report that a number of products included in the tariff list cannot be sourced in the U.S. as there is no U.S.-based factories producing some of these products. At the same time minimal alternative sources exist as China is the primary supplier to the world. Therefore, we do not see any benefits to the U.S. economy or U.S.-based manufacturers in imposing tariffs on these products, as sourcing would just shift to low-cost countries would not alleviate the overall U.S. trade imbalance.

Our members also report that producing a number of products included on the tariff list would be extremely cost prohibitive if manufactured in the U.S. This is especially true for air conditioning systems in the aftermarket industry where the volume per part number is low due to the number of unique parts covering every single make and model and vehicle on the road. Imposing additional tariffs on these auto parts and components would increase the price substantially making it difficult for working Americans to afford cost-effective options when repairing their vehicles.

We urge the Administration to consider this severity of imposing tariffs on imported good and the unintended negative consequences not only in the U.S. automotive industry but also on the overall U.S. economy.

We hope the Administration will work toward a carefully constructed rules-based bilateral trading system where China abides by its commitments when it joined the World Trade Organization. To level the playing field and address market access barriers this framework should include enforceable, strong intellectual property rights protection system which would help create a more predictable and fair trade environment to U.S. companies doing business in

China.

In conclusion, we support the Administration's efforts to improve U.S. competitiveness in the global marketplace but we hope that the Administration will continue engaging in high-level dialogue with China in addressing these issues, protect investments, facilitate trade, create competitive value chains that benefits the global growth of our members.

We appreciate the opportunity to testify and are available to answer any questions you might have.

MR. BISHOP: Thank you, Mr. Lowe.

Our next witness is Mike Mohan of Best Buy Company, Incorporated.

Mr. Mohan, you have five minutes.

MR. MOHAN: Good afternoon, Chairman, and the USTR Committee.

I am Mike Mohan, the Senior Executive Vice President and Chief Merchandising and Marketing Officer of Best Buy, a U.S. retailer of consumer electronics and related services headquartered in Richfield, Minnesota. Best Buy is also a manufacturer of flat panel televisions under our private label Insignia brand.

On behalf of Best Buy and its 110,000 employees across all 50 States and right here in the District of Columbia I thank you for the opportunity to appear before you today.

Best Buy respectfully requests that the USTR remove flat panel televisions classified under the U.S. harmonized tariff schedule subheading 8528.72.64 from the proposed list of products subject to the Section 301 tariffs.

Importantly, I want to emphasize that Best Buy is supportive of the goals of the USTR as set forth in its Section 301 report regarding force technology transfers in other unfair trade practices. However, today I'd like to outline three reasons why we are seeking exclusion of televisions from the list of proposed tariffs.

First, tariffs on flat panel televisions will not be effective in addressing the Chinese industrial policies identified in the

Section 301 Report. Simply put, targeting flat panel televisions will not directly help change these policies because these policies are not seen in a Chinese flat panel TV industry. Specifically, in the Section 301 Report the USTR found that the policy of the Chinese government is designed to promote Chinese companies to leading roles in certain advanced technology industries in part by replacing China's reliance on imported technology in these industries. Notably, flat panel televisions are not among the list of advanced leap frog technologies that are targeted by Chinese government policies. In addition, foreign investment in development of the industry generally is taking place free of restrictions and compulsory technology transfer policies. In fact, major Japanese, Korean and Taiwanese companies have wholly owned subsidiaries in China that develop and produce flat panel TVs. Most companies instead have been able to control the licensing and use of their own technology under what Best Buy understands to be entirely voluntary and on commercial terms.

Finally, Best Buy is not aware of any significant IP theft in the Chinese flat panel TV industry. In addition, targeting flat panel televisions will not indirectly affect China's policies because the overwhelming majority of TV panels sold in the United States are made in China. There are no near term alternative sources, meaning consumers will have no choice but to continuing purchasing TVs made from Chinese panels. Developing alternative sources would entail massive new investments that would take several years if ever to develop.

As a result, a 25 percent tariff will have no effect directly or indirectly on Chinese policy and only result in a significant disruption to the U.S. economy producing a result that runs counter to this data process employed by the USTR in choosing products to which the tariff would apply.

Second, tariffs will adversely affect Americans, namely, U.S. consumers and businesses.

In its written comments, Best Buy provides confidential data demonstrating the impact on the market, U.S. retailers and consumers. Given the lack of manufacturing alternatives mentioned before, Best Buy submits that imposing a tariff of 25 percent on goods that represent such a sizeable portion of the total U.S. market would amount towards effectively a significant new tax on U.S. consumers and businesses, raising retail prices as much as 23 percent according to a recent industry analysis. This increase in cost would fall primarily on the U.S. consumers who purchase smaller TV panels from China, televisions that are more accessible to American households with limited disposable income. In our view, this is inconsistent with the USTR's stated intent to place tariffs on products that are not likely to cause disruptions to the U.S. economy and U.S. businesses and consumers.

Finally, we think there are more effective approaches. Rather than imposing tariffs on flat panel TVs, the Administration should take other more targeted approaches to address the important issues highlighted in the Section 301 report. We have outlined these suggested approaches more specifically in our confidential written comments.

In conclusion, Best Buy understands and supports the motivation for fair trade policies and a level playing field with China as pursued by the USTR. However, we respectfully request that flat panel televisions imported from China be removed from the Section 301 tariff list because it will not accomplish the desired purpose and instead will have negative unintended consequences on U.S. retailers like Best Buy, American workers and consumers.

Thank you for your consideration. I welcome any questions you may have.

MR. BISHOP: Thank you, Mr. Mohan.

Our next witness is Patrick Rogers of TECO-Westinghouse Motor Company. Mr. Rogers, you have five minutes.

MR. ROGERS: Good afternoon and thank

you for this opportunity.

My name is Patrick Rogers. I'm the President of TECO-Westinghouse Motor Company located in Round Rock, Texas.

At this facility which was once owned by the Westinghouse Electric Corporation, Westinghouse built this facility in Round Rock in 1972. Westinghouse's name is significant to our lineage since both George Westinghouse and Nikola Tesla were accredited with inventing and commercializing the modern day poly phase induction motor in 1888.

Our parent company, TECO Electric and Machinery Company purchased the company in 1995 and currently employs 300 employees at this facility in Round Rock, Texas. This is three times the number of employees prior to TECO purchasing the company.

TECO is headquarters in Taipei, Taiwan, but also has manufacturing facilities in mainland China. Our factory in the United States specializes in manufacturing large electric machines as well as the distribution of low-voltage motors, variable frequency drives for industrial applications. We also operate our service and repair group in this factory and repair electric motors from all over the world. Some of our team members are second-generation employees that are productive citizens and contributors to the local and national economy.

While we strongly support the President and national security concerns we kindly request a re-evaluation of electric motor products identified in the Annex that will be subject to potential tariffs for products originating from China. We do this for the following reasons.

Number one. We seek free and fair trade due to globalization as an industry that has clear parameters. In the HTS listing some products of a similar class were omitted or lacking definition, thus, the tariff appears ambiguous.

Number two. Based on the current

global competitive landscape we believe there is no harm to American intellectual property rights, innovation or technology development for these specific products. Many of these products are off-the-shelf type and are shown in catalogs by many suppliers. Many of our products were designed in Taiwan and simply manufactured within China.

Number three. The industry is often deemed as mature and even a commodity product in many cases. Seeking the next lower cost region is always being explored by the global supply chain. While imposing tariffs on products manufactured in China appears to be a step in the right direction, it could serve to simply distribute the problem faced there to many other countries as companies realign their supply chains.

TECO-Westinghouse in Round Rock, Texas, has invested with U.S. capital and equipment in China for electric motor winding parts. These electrical winding parts fall under

HTS 8501, 8502, 8503 and 8504 and such parts will be subject to the 25 percent taxation under Section 301 thereby hurting TECO-Westinghouse's ability to be competitive in the marketplace.

Number five. To protect the USA steel industry TECO can insure that TECO made in China products will not use steel from China. TECO will provide certificate proof of using non-China steel from sources in Taiwan and Japan. Our United States operation had revenue totaling 206 million U.S. dollars in 2017 with 300 employees. Approximately 30 percent of our business is potentially impacted by the imposition of these tariffs on electric motors. In essence, 300 employees will not be required to account for the reduction of this business. Our latest estimation projects a reduction of approximately 100 employees as a result of this diminished business.

Customers will not purchase these specified products and items with a tariff included as the marketplace is very stiff in competition. The end user customer will continue to receive these motors from other low-cost countries. Prices will rise as competition will be limited to fewer participants. Unfortunately, the toll does not stop there. Many of these electric motors are sold by our distributors partners throughout the United States with inventory and support their local industries. Many of them are privately owned businesses.

After discussing our issue with Representative John Carter's office we wanted to show the impact of these tariffs on our business here in the United States. We thank you for your time and strongly request not to impose these duties directly on the jobs of American workers.

Respectfully, Patrick Rogers, President, TECO-Westinghouse Motor Company. Thank you.

MR. BISHOP: Thank you, Mr. Rogers.

Our next witness is Chas Smith of Roku, Incorporated.

Mr. Smith, you have five minutes.

MR. SMITH: Good afternoon. My name is Chas Smith and I'm General Manager for Roku TV and Players. On behalf of Roku and our 800 U.S. employees, thank you for the opportunity to attend today.

Roku holds over 55 patents and has pioneered streaming to the television. Using one of our products, almost 21 million customers globally, the vast majority of whom are here in the United States, choose from over 6,000 content channels and millions of hours of On Demand programming from partners like Netflix, Hulu, PBS and ESPN. Roku users can also choose from a variety of specialized channels that would otherwise be unavailable due to the way that cable TV is packaged.

For example, we offer hundreds of religious and education channels that are not generally available on cable. We are an American company. The vast majority of our employees are in the United States. And the vast majority of those employees are in the high value added parts of our business. This includes engineering and product development as well as maintenance of state of the art servers and databases are built specifically to support our business.

Roku has grown exponentially in recent years from 500 employees at the end of 2016 to over 900 today. And approximately 800 here in the United States.

I'm here today to talk about our Smart TVs, what we call Roku TVs and the fact that the Section 301 tariffs could cover these products and explain if it did what the detrimental impact that could have on Roku and our U.S. workforce.

First of all, what is a Roku TV? Starting in 2014 we began to license our proprietary operating system to various TV manufacturers including companies that manufacture in China. Roku licensees integrate the operating system into their TVs and pay us for that intellectual property. In a nutshell, Roku intellectual property is what makes the TV

Smart. And that intellectual property also opens up the TV for additional U.S. business for Roku. These TVs are co-marketed and sold using the Roku TV name.

In just three short years we made immense progress. In the first quarter of this year approximately one in every four Smart TVs sold in the United States was a Roku TV. Roku TVs are a vital part of our business and the extension of vital part of keeping Roku the innovative leader in streaming technologies. Sales of Roku TVs generate licensing revenue for Roku but they also create a pool of new customers for Roku's platform business.

A growing active user base is extremely important to Roku. With our platform business the channels that are accessed through our operating system will generate significant -- will share revenues with Roku. Will also generate significant advertising content distribution and promotion revenue from our platform. This revenue increases as our active user base increases. Hence, the importance of our fast-growing Roku TV business.

I'd also like to note that we see no valid reason to include Roku TVs on the list of product subject to Section 301. We have agreements with the manufacturers that protect our intellectual property and can happily report that those business arrangements are working well and our closed proprietary system does not allow anyone to access our source code without our permission.

If the tariffs resulted in higher price points for Roku TVs and this resulted in fewer TVs being sold it could have a negative impact on our business, potentially stifling our ability to innovate. In short, Section 301 tariffs could undermine Roku's ability to maintain American leadership in revolutionizing the TV experience. We ask that Roku TVs be excluded from the list of products subject to Section 301 tariffs.

Thank you. And I'll be happy to

answer questions later.

MR. BISHOP: Thank you, Mr. Smith.

Our final witness on this panel is Bill Fath of the Weir Slurry Group.

Mr. Fath, you have five minutes.

MR. FATH: Committee Chairman Busis and distinguished members of the Section 301 Committee, my name is Bill Fath and it is my privilege to appear today on behalf of several U.S. companies that provide products and services to oil and gas companies, mining companies and producers of raw materials in all 50 States in the United States.

Those companies are Weir Minerals where I'm the Managing Director, Trio Engineered Product, SPM Flow Control, Seaboard International. These American companies are all affiliated with the Weir Group, a global industrial group that has grown from a small engineering firm founded in Glasgow, Scotland, in 1871. I'm here to explain why four specific categories of parts should be removed from the list of products subject to the additional duties proposed in the Trade Representatives' Notice.

Those parts are specifically identified in our written comments but in general they serve two main functions. Pump parts and valve parts that the Weir companies use to custom build machines and systems critical to U.S. oil and gas and mining projects and grinding and sorting machine that the Weir companies use in developing systems to extract ores and minerals from mined rocks and to produce the aggregate use throughout the building and construction trades.

In deciding whether to impose new tariffs on pumping-related parts and grinding-related machines there are two questions that should be asked. The first question is, will the new tariffs have a disproportionate impact on the U.S. economy? We believe the answer to that question is yes. The second question is, will the new tariffs be effective in persuading China to stop its discriminatory trade practices with respect to U.S. technology and intellectual property? We believe the answer to that question is no.

Before I discuss why the new tariffs would not deter Chinese misconduct and would do disproportionate harm to the U.S. economy I'd like to tell you a little bit about the Weir Group, our business model and our long history of creating desirable engineering and manufacturing jobs in the United States.

We engineer and manufacture sophisticated equipment in the United States. We design and build both high pressure fracking pumps that may weigh more than 10 tons and slurry pumps that weigh more than 20. As part of the process we import low technology component parts from China and other countries. Our business is organized so that the valuable engineering projects and jobs stay in the United States while low technology parts, machines and components are in some cases sourced from countries with less qualified labor and industrial markets. By diversifying our sourcing this way we are able to provide the best products at the best price for our mining and oil and gas customers throughout the world.

We have more than 60 facilities in 20 states. We are proud of the fact that we provide high-quality jobs for thousands of highly skilled people in the United States. We believe that keeping those high-quality jobs in the United States is good for our employees, good for our companies and good for the customers we serve.

We think that last category is especially important because companies we serve are among the most critical industry sectors in the U.S. economy. Driving up the costs of our products would hurt these sectors. We believe this would cause disproportionate harm to the U.S. economy. Weir products are made of steel and aluminum. Since the introduction of the duties on these materials as a result of the Section 232 investigation we have seen our costs rise. The additional duties proposed by the Section 301 notice would impose yet another price increase on our operations.

As these costs are increasing we are seeing a contraction in our markets as a result of sanctions that have been imposed by the United States and Russian and certain Russian oligarchs. In our industry changing from a Chinese components suppliers to some other source is much easier said than done. We believe it would take at a minimum 12 to 18 months to change over. We would have to identify and qualify new suppliers, relocate tooling or invest in new tooling and move production operations. Because we cannot change suppliers quickly or cheaply we believe the cost of the products that we design and build in the United States will have to go up. The economic sectors that will have to pay those increased costs are at the foundation of the U.S. economy. Our customers supply the raw materials for the production of energy, steel, aluminum and other metals, aggregates, fertilizer and other building blocks of the economy. It is these industries that will ultimately pay the increased costs associated with the proposed duties.

The pumping, grinding and sorting parts that Weir imports are low technology parts. They are not high tech equipment, information technology or valuable intellectual property. American engineers and skilled laborers use these low tech parts to build custom design highly engineered systems in the United States.

Imposing new duties on Weir's imports is not part of the solution. Made in China 2025 identified 10 favored economic sectors. Weir's imports are not among those sectors. Driving up the cost of oil and gas production, coal mining, steel production, infrastructure repair and development in the United States will have no meaningful effect on Made in China 2025.

Thank you very much for your attention. I look forward to any questions.

MR. BISHOP: Thank you, Mr. Fath.

Mr. Chairman, that concludes direct testimony from this panel.

MS. HOWE: Julia Howe from USTR's China

Office.

The first question is for Mr. Lowe.

Can you estimate the price impact to aftermarket consumers if your members needed to source product outside of China and if these products are not currently produced domestically do you expect the production to shift back to the United States and, if not, what country is most like to replace imports from China?

MR. LOWE: Well, it's a broad question because I think every component is different so there would probably be different sourcing. We expect that if the part -- a lot of the parts, like the air conditioning parts that we talked about, there's really no other place in the world but China right now that are sourcing those components. And so likely in the short term those prices will just go up for the consumer. The amount is unclear but most of the price will probably be transferred to the consumer.

What country, I couldn't answer that question at this point. I would have to go back to my numbers and look at that.

MR. LOWE: Is that something you want to submit later in written comments that would be helpful.

MS. HOWE: Sure.

MR. LOWE: Thanks.

CHAIR BUSIS: A follow-up question, Mr. Lowe. You mentioned that there was a low volume in some of these air conditioning parts and thus that China was the best source. Is there some specific structural advantage China has that can produce low volume parts because low volume parts have to be produced somewhere. So, what is it about China that makes low volume parts the only source?

MR. LOWE: Well, I think the labor rates are lower in China and so to bring them back here, to bring all, you know, it would take years to have the machinery and I don't think that's what would happen. I think either it would get sourced elsewhere or the costs would just be absorbed by the consumer. But I think what I'm saying is, the volume, you know, there's so many different components, different makes and models that there's not one mass, you know, part that can get produced across vehicle lines. They have produced multiple makes and models of parts. So, that's why it's very cost prohibitive in the U.S. at this point. It doesn't pay to build that kind of -- you're not going to have that kind of labor here in the U.S. at this point. We don't see that changing.

MR. SULBY: Ari Sulby from the State Department's Trade Office.

My question is for Mr. Mohan. Does Best Buy import flat screen televisions produced in any other countries? If Best Buy were to develop alternate sources for specific flat panel television that they are requesting to remove where would these sources most likely be located?

MR. MOHAN: Thank you for the question. Chairman and Committee Members, the vast majority of the TVs we import directly do come from China. As stated by another panel member I think it's important to give a little context on the U.S. television industry. There is no manufacturing capabilities today and in the near term available to actually build TVs in the United States. The only thing that exists currently is a small assembly facility that will be able at capacity if it runs at capacity to build and produce less than three million televisions. The U.S. demand on an annual basis is in excess of 35 million TVs.

The predominance of TVs we're talking about from China fall into the 30 inch to 46 inch size segment. And China is simply the only place that has the capacity to assembly those TVs and have us import them whether they're under our brand or somebody else's.

I'm answering your question by saying there are no other alternative places to store TVs from. While there is assembly in Mexico, it's for a different size TV and the ability for them to scale the size for us to allow import doesn't exist. So, the vast majority of our TVs come from China with a small percentage we directly import from Mexico.

CHAIR BUSIS: Ms. Buchzeiger, you had mentioned that you had been considering opening a forging plant in I think Michigan.

MS. BUCHZEIGER: Yes.

CHAIR BUSIS: Would there be government policies -- Federal government policies that could encourage that kind of investment?

MS. BUCHZEIGER: Right now actually we're looking into that and working with a couple of different investment firms and we are looking into that. So far we've had some very hopeful, yeses from the Government and we're excited about it. But, again, unless I'm around --

CHAIR BUSIS: When you say the Government do you mean the Federal Government or --

MS. BUCHZEIGER: Federal Government -- I'm sorry, State -- at the State level.

CHAIR BUSIS: Okay. So, you're working with the State government?

MS. BUCHZEIGER: Correct.

CHAIR BUSIS: Okay. Got you. Thank you.

MR. AMDUR: Alex Amdur from Customs Border Protection, I have a couple more questions for Ms. Buchzeiger.

CHAIR BUSIS: Hold your mic a little closer please.

MR. AMDUR: Okay. Alex Amdur from Customs Border Protection. A couple more question for Ms. Buchzeiger.

So, your testimony mentions plants in Asia. Are there other Asian countries besides China that you source from?

MS. BUCHZEIGER: No. Taiwan and China are where we produce the bulk of the parts that we import right now.

MR. AMDUR: Okay. So, you also produce source products from Taiwan as well?

MS. BUCHZEIGER: Taiwan and China, yes.

MR. AMDUR: Okay.

MS. BUCHZEIGER: Which I'm assuming

Taiwan is covered under this proposal as well.

MR. AMDUR: And I'll just have a question, you specified one HTS category in your testimony for certain types of hinges.

MS. BUCHZEIGER: Yes.

MR. AMDUR: Who are the other major U.S. and foreign producers for this product?

MS. BUCHZEIGER: I'm working very closely with NEMA right now as well and I was inquiring with them who the other players would be and that's right now the other people that import under this code are an after-market company. But there's other companies such as Magna, MultiMaddock and Ed Shaw that also produce these parts globally and import as well.

MR. AMDUR: And what about in the United States? Production in the United States?

MS. BUCHZEIGER: In the United States I am not aware of any forging facility that makes any door hinges anywhere in the United States. And, again, we went through systematically to look for capacity to do just that and we found nothing.

MR. AMDUR: Okay, thank you.

CHAIR BUSIS: Ms. Buchzeiger, it would helpful is you in your additional comments could break down the extent you purchase from Taiwan versus from China generally because they're separate custom territories.

MS. BUCHZEIGER: Okay. That's wonderful. I will do that in our written submission.

CHAIR BUSIS: Great, thank you.

MS. PETTIS: This is a question for Chas Smith of Roku.

I'm Maureen Pettis from Department of Labor.

Does Roku license their operating system to any TV manufacturers outside of China and where do the TVs that Roku competes with such as Samsung, LG, and Vizio import TVs into the United States. Where to their TVs come from?

MR. SMITH: Thanks for the question. Yes, we license to multiple brands. We have 10 brands currently selling Roku TVs. There are Chinese companies in that. There are also companies from Japan, from the U.S. Actually, several of the brands we work with are right here in the U.S.

MS. PETTIS: Okay.

MR. SMITH: And the TV manufacturers that you mentioned like Samsung, I believe they build TVs in Korea but they also build TVs in China. And I'm sure other countries but I don't have the complete details of that.

MS. PETTIS: Thank you.

MR. SMITH: Okay.

MR. SULBY: Thank you, my next question is for Mr. King.

In your testimony you indicate that "TCL designs, manufactures, markets and sells TVs in the United States." Can you provide details about the U.S. manufacturing operations, how many U.S. employees does TCL have and how many are engaged in manufacturing?

MR. KING: So, when it comes to the

manufacturing side of it that's done in China. The TVs are designed here. They are marketed here and sold here to U.S. consumers and the people that do the designing and the marketing are Americans working here in America. The TVs themselves are manufactured in China just like most TVs that come into this country, especially, TVs at that particular price point.

TCL's U.S. operation stands -- honestly, I'd have to ask, say 80 people in one building, another 100 in another building. But we're growing. We are America's fastest growing TV brand. We've doubled our sales just about here over a year. And that has resulted in significant hiring. As a matter of fact, we just relocated our headquarters to a building three times the size of its former building just to accommodate the growth we have. So, we are, in essence, a success story employing Americans and growing at a substantial rate.

MS. SALZMAN: Question for Mr. Rogers.

Of the products that you discussed in

your testimony has TECO-Westinghouse ever sourced these products from within the United States and alternatively or in addition do you ever source these parts from outside of China?

MR. ROGERS: Yes, thank you. Just a quick update I think would be that we have separate the electric motor business that I discussed in my testimony into very large custom machines, several tons, 85,000 horsepower type material that we manufacture in the United States in Round Rock, Texas.

The other portion of my testimony is regarding small, what we call NEMA frame motors which are made generally up to about 500, 600, 700 horsepower. Those machines are built overseas. Most of my competitors manufacture those machines overseas today. They manufacture them in other countries other than China. So, basically, I import those products into my warehouses. I distribute them through our supply chain to our independent distributors throughout the United States and they sell to their local industries. Okay. I'm not sure I answered your question.

MS. SALZMAN: No, it's fine. Thank you.

CHAIR BUSIS: So, you used Chinese produced parts in a larger motor, correct?

MR. ROGERS: We use China -- yes.

CHAIR BUSIS: A larger pump, right?

MR. ROGERS: Yes. In our motors as in my testimony I did say that we did invest capital as well as equipment into a facility in China that manufactures mining parts, basically coils for large electric motors that we bring over. And in the 301 docket there is broken down by parts obviously with stators and rotors and things like that so it's quite encompassing, yes. We would source that from China and/or from other factories.

CHAIR BUSIS: Would it be possible for your to estimate, probably this is confidential but for your rebuttal submission. When you sell a pump that has a Chinese winding in it what the percentage of the value is of --

MR. ROGERS: As the --

CHAIR BUSIS: -- as the U.S. content versus the Chinese content?

MR. ROGERS: Sure. It's probably 40 percent more for me to manufacture that piece of equipment in the United States.

CHAIR BUSIS: I want to ask you this. The percentage in the final value of the pump what's the percentage of Chinese content versus what you're currently doing it. And, again, that may be confidential but --

MR. ROGERS: No, it's not confidential. It depends on the type of product and the requirements. We can bring in parts and pieces and manufacture complete motors within the United States in Round Rock. We can bring in two major components to put them together, finish modifications, assemble and do the testing or we can build the complete product overseas. So, there is some flexibility there depending on the competitiveness of the operation as well as the customer. Some customers want U.S. built.

MS. HOWE: My question is for Mr. Fath.

Has Weir Slurry Group ever sourced these parts and components domestically or outside of China and, if so, where? And also in your post-hearing submission could you specify the exact subheadings that you would like removed from the list?

MR. FATH: Absolutely, we will specify in the written report.

Yes, I would say at one point in time, you know, whether it's Weir, Weir Slurry or SPM or Trio. Well, not Trio is an exception. There probably was sourcing in the U.S. for a lot of these components, but I've been in the pump and valve industry now for 20 plus years and I can tell you during that time the industry shifted a lot of the lower technology parts off shore and concentrated on what we could put in the factories here that were, you know, harder to duplicate, if you will, because we're competing globally. So, the capability and those supply chains, the tooling patterns, for example, on this they don't exist anymore domestically in most of our business units.

MS. HOWE: And what about other countries outside of China?

MR. FATH: Outside of China, yes. We source not those particular parts. Usually with the cost of tooling we're investing quite a bit with the foundries because there's fair amount of development of those suppliers to provide parts to the quality that we need in our equipment that we're building. Weir also has plants in China that we'll bring over equipment or components with as well that are impacted by this tariff as well.

CHAIR BUSIS: Mr. Bishop, I think we've finished our questions for this panel. Thank you.

MR. BISHOP: We release this panel with our thanks. And we --

CHAIR BUSIS: I just have a -- for the next panel my colleague, Mr. Tsao will be chairing the meeting for the remainder of the three panels. Thank you.

MR. BISHOP: If our panel that is seated here would please come forward and be seated. And the following panel please come forward and be seated in the waiting area.

We're going to go ahead take a ten-minute break before we hear direct testimony from this panel. We stand in recess until five minutes to two.

(Whereupon, the above-entitled matter went off the record at 1:44 p.m. and resumed at 1:54 p.m.)

CHAIR TSAO: Will the room please come to order.

Okay. Good afternoon. My name is Arthur Tsao. And I'm an Assistant General Counsel with the Office of General Counsel at USTR.

At this time we have some new members on our Committee members. And I will ask them to introduce themselves.

MS. KORKOS: Sorry. Nicole Korkos, Counsel of Economic Advisors.

MR. SULBY: Ari Sulby, Department of State.

MS. HOWE: Julia Howe, U.S. Trade Representative's Office.

MR. MITCHELL: Stevan Mitchell, International Trade Administration, Department of Commerce.

MS. PETTIS: Maureen Pettis, Department of Labor.

MR. AMDUR: Alexander Amdur, Customs and Border Protection.

CHAIR TSAO: Great. Thank you. And Mr. Bishop, we're ready to begin.

MR. BISHOP: Our first speaker on this Panel is Mike Branson of Rheem Manufacturing Company Air Condition Division Operations.

Mr. Branson, you have five minutes.

MR. BRANSON: Thank you to the Section 301 Committee and USTR for arranging this important hearing. And for giving me the opportunity to speak with you today.

My name is Mike Branson. I'm the Executive Vice President and General Manager for the Air Conditioning Division Operations at Rheem Manufacturing Company.

Rheem is a market leader in heating, cooling, water heating, pool heaters, and commercial refrigeration products with manufacturing, operations, and markets in the United States and around the world.

We are headquartered in Atlanta, Georgia. And we have U.S. Manufacturing facilities in Alabama, Arkansas, California, Connecticut, and North Carolina.

Rheem currently employs approximately 3200 people in the United States. Which includes over 1700 production workers.

We continue to invest heavily in our U.S. manufacturing operations. And in fact we just recently launched a new air conditioning platform and invested tens of millions of dollars into our Fort Smith, Arkansas facility that originally opened in 1970.

I worked in the HVAC industry for over two decades after serving as an officer in the U.S. Navy. And I've been with Rheem since 2010.

The market has certainly evolved over this time. When I got into this market, Chinese manufacturers were not significant players in the ducted type of air conditioning equipment that is used almost exclusively in the North American Market.

However, in recent years, we've observed certain Chinese manufacturers, strategically focusing on products for this market. And making serious inroads through extremely aggressive pricing.

The intentions of these manufacturers has clearly been to displace U.S. based companies in this industry. This became personal to me just a few years ago when I was approached by a Chinese manufacturer that expressed an interest in making and branding Rheems' products for less than what it cost to make our own products in

America.

An executive from this Chinese-based company stated that it did not consider U.S. manufacturers to be competitors. But merely initial suppliers of a channel until they could introduce their own brands to displace the traditional U.S. brands in the market.

Without hesitation, we respectfully declined their terminal offer. We appreciate that the Section 301 measures are intended to support U.S. manufacturers.

The tariffs thus should not be structured in a way that could further damage the domestic air conditioning industry. And that is why I've requested to speak with you today.

There's a problem and an opportunity with the scope of coverage of the Section 301 members, at least as it has been proposed in the April announcement.

The preliminary list of products subject to 301 tariffs includes the inputs that go into making air conditioners, parts of the air conditioners and various articles of steel and aluminum already appear on the list. But the list does not yet reflect any tariff's on finished good air manufactured in China.

Here's the concern. If the inputs are subject to tariffs, but the finished goods are not, it creates an incentive for Chinese manufacturers to shift more production downstream, from air conditioner parts to finished air conditioners, to avoid the tariffs.

This could create increased competition for our industry, while at the same time hampering our ability to compete. Because tariffs on our inputs increase our production costs even when we source domestically.

If our inputs are subject to tariffs, the finished air conditioners made by our Chinese competitors are not, air conditioners produced by Chinese manufactures would have a cost advantage. And there would be further disruption to Rheem and the remainder of the U.S. industry.

Accordingly, assuming parts of air

conditioners remain on the list, we request that finished air conditioners also be included on the list. The specific tariff items that should be added are referenced in our May 11 written submission.

Inclusion of these additional HTS codes on a section 301 tariff list would not cause disproportionate economic harm to U.S. interests.

With our recent capital investments in manufacturing operations, we have sufficient capacity to react to an increase in domestic demand. And other domestic and non-Chinese foreign suppliers of air conditioners also have capacity to meet demand.

I thank you for your time today. And for your continued efforts on behalf of the interests of U.S. manufacturers and their workers.

MR. BISHOP: Thank you Mr. Branson. Our next witness is Robert Beckwith with Crosman Corporation.

Mr. Beckwith, you have five minutes.

MR. BECKWITH: Thank you. And thank you very much for allowing me to speak with you today.

By way of background, Crosman Corporation is a leading provider of air guns, consumer optics, consumer lasers, and archery products to the consumer market.

We are in fact, the only mass production airgun company in the world to manufacture our products in the United States. And have been doing so for almost 100 years.

Crosman's operations are in upstate New York, employing over 280 people. Not in my testimony there, about 200 of those are in manufacturing.

Additionally, we operate a foreign trade zone in both of our upstate New York locations. The establishment of the foreign trade zone enabled us to have a cost structure consistent with that of our foreign and foreign source's competitors.

Therefore, we believe we have a unique perspective the Committee should hear. Our believe is that HTS Code 90131010, which is telescopic sites for rifles not designed for use with infrared light and to include that in Section 301 is inappropriate.

First it says that -- I read through the Federal Register, Volume 83, Number 67, it states that trade analysts from several U.S. government agencies identified products that benefit from Chinese industrial policies including Made in China 2025.

The list was refined by removing specific products identified by the analysts as likely to cause disruption in the U.S. economy. We do not believe the consumer scopes will benefit from any of the Chinese trade policies being discussed and being addressed by the regulations.

However, the inclusion of consumer scopes and the list of tariff increases will cause the disruption in the U.S. economy. Why is that?

Because many of the items imported under that code are low to mid-end consumer scopes. That are generally not manufactured in the U.S.

There is no low to mid-end consumer scopes manufactured in the U.S. Only very high end scopes at high price points.

Therefore, the inclusion of this code will have a negative impact on the consumer. Consumer scope production does not fall under the four acts, policies and practices under investigation described in supplementary implementation Chapter B.

Additionally, none of those products fall within any of the ten product codes listed under Made in China 2025. If the code is included, we'll respectfully request that there be an exemption allowed for the foreign trade zone.

Again, we are the only manufacturer -- mass produce air gun producer in the world, in the U.S. We bring in scopes from China to put on our product.

Our competitors import a completed product with a scope on it at a much lower HTS code then the scope rate is. The foreign trade zone has allowed us to utilize the 3.9 percent rate for the imported product so we could be competitive with those bringing them in assembled, complete.

However, if we -- the regulations go through as proposed, our duty rate will effectively go from 3.9 percent on these scopes to 40 percent. Making us much more uncompetitive in the marketplace.

In conclusion, we think that the tariff increases will not accomplish the goals stated in the USTR 2018-05 will cause harm to both the U.S. consumer economy. And will result in the loss of U.S. jobs.

We will have no choice but to have to react to make our cost structure consistent with those of our competitors. And I welcome any questions you've got.

MR. BISHOP: Thank you Mr. Beckwith. Our next witness is Paul Czachor with American Keg Company.

Mr. Czachor, you have five minutes.

MR. CZACHOR: Thank you for having me. My name is Paul Czachor. I am the CEO of American Keg Company.

American Keg Company is the last remaining domestic supplier of stainless steel kegs. We're requesting today that stainless steel kegs be added to the 301 tariffs.

In addition to the summary, we've also submitted business confidential information to go along with this summary.

Kegs are -- stainless steel kegs are primarily made of stainless steel. And the kegs on this particular presentation, on that slide, those are domestically produced kegs with 100 percent domestic steel from U.S. mills.

Currently, there are numerous sizes of stainless steel kegs that are imported from China with a zero percent tariff. We are requesting that the Office of the United States Trade Representative add stainless steel kegs to the 301 tariff with a 76 percent tariff.

The background is China supplies steel import kegs. And they make up approximately 43 percent of all the kegs sold in the market in 2017.

Which equates to approximately 40 million dollars. As stated earlier, there's only one domestic stainless steel keg manufacturer using domestic steel.

And without the ability to level the playing field, it is highly doubtful that this supplier or manufacturer will be in business past the end of the summer.

There are no specific HTS codes for stainless steel kegs. Most or all of the Chinese imported kegs are imported under HTS 7310.290050, 7310.10.001.

I would note that for those two categories, it was approximately 126 million dollars for the entire Chinese import in those two categories. And kegs made up approximately 30 percent of that in 2017.

Moving forward, talking about the Chinese import injury. The domestic stainless steel keg industry is materially injured by the dumping and countervailing of Chinese stainless steel kegs.

These kegs are imported at a cost that is just a few dollars more than the cost of the raw materials, which is domestic stainless steel, to produce a keg in the use. This unfair pricing practice puts the price of a domestically produced keg as much as 50 to 76 percent higher than a Chinese import.

Chinese stainless steel kegs are manufactured using low-cost Chinese steel. And are subsidized. This has been well documented in many cases.

The most recent tariff of 25 percent on raw rolled stainless steel is driving up domestic stainless steel pricing. This is a key point.

As our prices rise for domestically produced steel, these imported kegs are coming into the United States with zero percent tariff. So the price is continuing to increase for our production and to our customers, while imported kegs are coming in with zero percent tariff.

On the next slide you can see clearly the cost of the raw material for particular kegs on this slide are just a few dollars more than the raw material costs. It virtually makes it impossible for a domestic supplier to compete once you add in labor, rent, utilities, et cetera.

As stated earlier, an unfair practice -- unfair practice that puts price of domestically produced kegs as much as 50 to 76 percent compared to the Chinese imports.

The impact of putting tariffs on Chinese imported stainless kegs, adding a stainless steel keg to the 301 tariff would have a neglectable to no impact on consumers. And a non-material impact on the businesses that purchase kegs.

301 tariffs would be effective in eliminating China's bad practices while having no economic harm to U.S. interests. It would effectively allow the U.S. to bring back more jobs and spur growth by allowing companies in the U.S. to be competitive in making stainless steel kegs.

In conclusion, on behalf of American Keg and its suppliers, we respectfully request that the USTR implement a tariff of 76 percent on stainless steel keg imports from China.

Thank you.

MR. BISHOP: Thank you Mr. Czachor. Our next witness is David Baer with Element Electronics.

Mr. Baer, you have five minutes.

MR. BAER: Thank you. On behalf of Element Electronics and it's nearly 200 factory workers in Winnsboro, South Carolina, thank you for the opportunity to testify today.

Despite what you may have heard, Element Electronics is the sole U.S. mass producer of LCD televisions within the United States. We're in the top five unit market share in the U.S. for TVs. And our factory is nowhere near its capacity.

Element Electronics supports free and fair trade that ensures a level playing field for American workers. Unfortunately, the current playing field is far from level.

Our current trade agreements provide significant advantages to imports over U.S. produced TVs. The normal duty rate on imports of finished good TVs is 3.9 percent.

The normal duty rate on imports of LCD panels, which is the critical component of a TV is 4.5 percent, a classic tariff inversion. To make matters worse, imports of finished TV through Mexico under NAFTA faces zero percent duty.

So why is Mexico relevant? TVs produced in Mexico are produced using Chinese parts. And Mexico is simply a final assembly location for purposes of avoiding duties that American companies like Element pays.

As a result, U.S. duties incentivize moving TV production outside of the U.S. And favor Chinese and Mexican workers over U.S. workers.

The 301 has the potential to level the playing field for Element's U.S. work force and workers across America. Therefore, Element supports the inclusion of finished TVs in the scope of the 301. And also supports the exclusion of LCD panels used in the assembly of TVs from the list.

LCD panels are a critical input component necessary for the production of TVs in the U.S. And there's no U.S. production of these TV LCD panels.

The application of the 25 percent duty on finished TVs from China would address some of the tariff inversion issues. Over the impact of imports directly from China, they are not the only problem to be addressed in order to increase U.S. production of TVs.

The 301 must have strong anti-circumvention provisions to address evasion tactics that have already begun. Element has firsthand knowledge in the marketplace.

The Chinese producers have already begun to move components and subassemblies to places like Thailand, Vietnam, and Mexico for the sole purpose of evading any duties that may be imposed under 301.

This can be done quite easily given the rules of origin that normally apply to televisions. The 301 would be a toothless tiger without protections against these circumventions.

The administration could ensure an effective 301 remedy by imposing for purposes of a 301 duty requirement that all imported TVs classified under 8528.70 must undergo a tariff shift from any other tariff heading other then 9013.80 or 8529.

The application of this rule would

prevent Chinese producers from shifting production to other countries simply for the purpose of evading the 301 duties.

Recently, the National Retail Federation and Consumer Technology Association released a study arguing that inclusion of TVs would have a negative impact on the US economy. This analysis is fundamentally flawed because it relies on false assumptions.

The study assumes that import TVs from China and Mexico are not substitutable. This is not true. The data that we provide in our written submission shows that 84 percent of all TVs imported from China and Mexico fall under the same four HTS lines.

Second, the study concludes that because the average cost of TVs from China are lower than the average cost of TVs from Mexico, they're not suitable alternatives. Again, this is a distortion of the facts.

The reason for the cost differences between China and Mexico are a function of importers engineering the lowest duty cost as it relates to freight. So, small screen sizes equal a small duty and so they're shipped directly from China.

Large screen sizes, higher cost, much higher duty. So they flow through Mexico and get zero duty treatment under NAFTA.

Finally, claims that U.S. consumers will see a significant price increase for TVs as a result of the 301, are simply not supported by real world facts. Element's proof, we're currently sold throughout retail at a competitive price with imports.

So, the 301 presents an opportunity to level the playing field for Element's workers in South Carolina. And to do this, the 301 must do three things.

One, impose a 25 percent duty on imports of finished TVs on the list. Two, maintain the exclusion from the 301 duties of the LCD panels.

And finally, impose strong anti-circumvention provisions to prevent Chinese producers from evading the 301 duties simply by moving final assembly to other Southeast Asian or Mexico -- Southeast Asian countries or Mexico.

Thank you very much for your time. And I'd be happy to answer any questions.

MR. BISHOP: Thank you Mr. Baer. Our next witness is David Feniger with the American Posts, LLC.

Mr. Feniger, you have five minutes.

MR. FENIGER: Good afternoon Chairman and distinguished members of Section 301 --

MR. BISHOP: I need you to speak into the microphone, please.

MR. FENIGER: Oh, sorry.

MR. BISHOP: Thank you.

MR. FENIGER: Good afternoon Chairman and distinguished Members of Section 301 Committee. My name is David Feniger. And I am President of American Posts of Toledo, Ohio, which manufactures steel posts for the commercial and military market.

On behalf of my employees and their families, I am honored to have the opportunity to speak to you today. I've also submitted extended comments for the record.

I'm here today to respectfully request the addition of HTS Code 7326.90.8635 to the proposed Section 301 list. This HTS covers steel fence posts, including new posts we make, which are three to eight feet long steel posts for fencing and other farm and garden needs in the U.S.

We are also proud suppliers of steel U posts to the U.S. Department of Defense to meet worldwide military security requirements. Twenty years ago, four active U.S. companies were manufacturing steel U posts for the commercial market.

However, years of unfair Chinese trade practices have forced our U.S. competitors out of business, leaving American Post as the last standing American manufacturer. Today our only competition for commercial sales in the U.S., are

Chinese manufacturers, who possess 85 percent of the market.

We deeply appreciate what the Committee and the Administration are doing to ensure businesses like mine that they can compete against China on a fair and level playing field for the business of the American consumer. The fact is, we're fighting to stay in business.

With only 15 percent of the market and our operations running at only 35 percent capacity, I do not see a clear path to avoid the fate of our former U.S. competitors if fair -- if unfair Chinese trade practices are allowed to continue without penalty.

To be clear, American Post strongly supports both Section 232 and Section 301 tariffs. But in their current form they have no impact on our Chinese competitors who are able to bypass the tariff rules.

Our steel U posts are manufactured by roll forming light gauge hot rolled steel, and applying a powder coated finish. This is the same process our competitors use, but we use American made steel.

In fact, the steel in the U posts account for over 70 percent of the cost of the final product. The steel is not only on Section 232, it is also on the proposed Section 301 list.

Yet the finished product steel U post itself is not on either list. As a result, Chinese manufacturers can produce steel U posts in China, using Chinese steel for direct sale to the U.S. without penalty, again, despite the fact that 70 percent of the content of steel is subject to the tariff.

For further context, American Post specializes in providing a just in time delivery system for U.S. based customers. However, despite our low-cost business model, the Chinese competitors still hold 85 percent of the U.S. market.

This is largely due to lower production costs the Chinese competitors have. Specifically the cost of steel mill articles used to manufacture steel U posts.

Chinese steel mills have historically benefitted from subsidies, preferential trade policies, unjustly low wages, and the avoidance of environmental and work force regulations, which have kept their steel prices artificially low.

This unfair advantage is not a new development. The issue was brought before the U.S. International Trade Commission in 2002, where the Commission ruled that the U.S. industry was materially injured by reason of less then fair value imports for steel U posts.

However, the duties were allowed to sunset in 2008. This already difficult market dynamic has been further compounded since the announcement of 232, which has caused the increase of over 25 percent on U.S. steel prices.

This has significantly increased the production costs, while our Chinese competitors' costs remain the same. A 25 percent tariff is needed to level the playing field.

The price chart in my confidential submission shows that a 25 percent tariff on Chinese manufacturers will allow us to maintain competitive pricing with minimal impact to the American consumers.

In fact, this action would finally give American Posts a level playing field to compete for the business of the nation's largest big box retailers, so that Americans can once again have a choice between buying American and buying Chinese. Orders from just one of the large big box retailers in the U.S., would result in the creation of at least 40 U.S. jobs.

In summary, China's unfair trade practices and their ability to bypass steel tariffs has created an unsustainable situation for American Post. Both Section 232 and proposed Section 301 included the hot rolled steel coils used to manufacture U posts.

To be effective, the finished product U posts made from the tariff steel must also be added to Section 301 list. Failure to take action will jeopardize the viability of our company.

On behalf of American Post, I deeply appreciate your time and consideration of my request.

MR. BISHOP: Thank you Mr. Feniger. Our next witness is Chad Severson with InSinkErator.

Mr. Severson, you have five minutes.

MR. SEVERSON: Thank you. Good afternoon Mr. Tsao and Members of the Section 301 Subcommittee.

My name is Chad Severson. And I'm the President of InSinkErator. Thank you for the opportunity to appear before you today on behalf of InSinkErator and our 1,400 -- I'm sorry, 1,342 employees in southeast Wisconsin who work at the first and the only remaining U.S. manufacturer of food waste disposers.

Let me give you a brief introduction to my company. InSinkErator is celebrating its 80-year anniversary of manufacturing food waste disposers here in the United States.

In fact 100 percent of our food waste disposer production comes from our two U.S. plants located in Racine and Kenosha, Wisconsin. Not only do we manufacture all our disposers in the United States, we source here as well.

For example, InSinkErator purchases tens of millions of dollars of U.S. steel every year. We are responsible for over 350 jobs at associated suppliers.

I am here today to request that food waste disposers entering the United States under HTS Code 8509.80.20 be included on the list of products subject to tariffs per the Section 301 investigation.

Inclusion of these products will help protect my 1,342 employees. It will also protect the nearly 100 million in recent investments we have made in U.S. manufacturing.

Our employees are dependent on a level playing field here in the United States. The United States is the primary game in town for food waste disposers representing the vast majority of total global demand.

While domestic demand in China is microscopic, as a result the Chinese industry is almost entirely export oriented, actually U.S. oriented. Unfortunately, unfairly traded Chinese imports have made recent and troubling inroads in the U.S. market.

Disposer imports from China have doubled in the last four years. Over the last decade, during which InSinkErator has been subjected to imbalanced tariffs and intellectual property infringement, disposer imports from China have resulted in a loss of hundreds of millions in sales revenue.

We are deeply concerned that the Chinese industry is driven by the policies that Section 301 is designed to address. Specifically rampant intellectual property theft.

I am also concerned that the customs duties on disposers are not reciprocal. Which means that we pay high tariffs and have no access to Chinese markets while the Chinese competitors we face enjoy duty-free access to ours.

Specifically, our exports into China have historically been subject to a 20 percent tariff currently reduced to a 10 percent on a temporary basis. While exports from China to the United States face no tariff.

The intellectual property story is straightforward and deeply troubling. Our Chinese competitors have manufactured and exported products that infringed our patents covering InSinkErator's state of the art grind mechanism shredder plates and antimicrobial additives.

That intellectual property is the heart and soul of our product. And represents the primary value add of our Wisconsin workforce.

There have also been egregious violations of InSinkErator's trademarks and copyrights. Third parties have copied entire portions of our website content in an effort to sale knock-off disposers.

Chinese authorities have also allowed the registration of trademarks in China that are identical or nearly identical to the InSinkErator logo. U.S. authorities would have never dreamed of registering these rip-offs. And examples are in the last page of my testimony.

Our efforts to address these infringers in China have tied up company resources that should have been reinvested in my employees and facilities in Wisconsin, not with Chinese lawyers.

These intellectual property issues occur against a backdrop of Chinese state policies designed to encourage Chinese production of environmental goods like food waste disposers. As noted in the Section 301 report, environmental goods have been designated a strategic emerging industry by the Chinese State Council.

It is clear, our industry has a target on its back. And we need the U.S. government to act through the Section 301 process.

Lastly, I want to reiterate the non-reciprocal tariff regime for food waste disposers. Imports into China of U.S. disposers are subject to varying duties between 10 and 20 percent, while imports into the United States enter duty free.

This is exactly the type of situation the President has told the people of Wisconsin that he would stop.

Thank you for your time. I am happy to answer any of your questions.

MR. BISHOP: Thank you Mr. Severson. Our next witness is Michael Stateczny of New Castle Stainless Plate.

Mr. Stateczny, you have five minutes.

MR. STATECZNY: Thank you Committee Members, for holding this hearing today. And for allowing me to testify on behalf of the Coalition of Energy Equipment Manufacturers, CEEM.

My name is Mike Stateczny. I am the President and Chief Executive Officer of Newcastle Stainless Plate based out of Newcastle, Indiana.

CEEM is a coalition of U.S. fabricators that manufacture highly specialized industry components that are necessary to produce, store, transport, and refine oil and gas and related products. As well as other mission critical applications vital to the functioning of an advanced economy.

I am here today to ask that process industry components for the energy related and refining industries be included in the final list of products covered by the Section 301 action.

Much like the steel industry, U.S. fabricators that manufacture these critical components have been hit especially hard in the last few years by unfair competition from foreign companies.

Heavily subsidized foreign corporations have begun dumping fabricated energy equipment at prices that are often below the cost of materials for the same equipment manufactured in the United States.

This is an intentional effort on the

part of companies and countries to avoid the duties that are already in place. And has made it nearly impossible for U.S. companies to compete in the open market for fabrication jobs, many that are being utilized within a few miles of U.S. manufacturing facilities.

This has resulted in a substantial loss of high paying jobs in the manufacturing sector. Especially in equipment for offshore oil and gas production and in refining operations.

This will only continue to happen and get far worse unless the federal government intervenes in a meaningful way.

Whilst we support the Administration's goal of protecting our national security, the Section 232 steel tariffs are having the harmful effect of undermining the competitiveness of U.S. manufacturers by increasing the material cost to fabricators for components critical to both national security and energy independence.

To that end, it is imperative that the specific issues of energy equipment fabricators be addressed in the overall plan to combat discriminatory practices of many of our foreign trade competitors.

While the current list of proposed products subject to the Section 301 action includes many upstream steel products, it does not include process industry components that are also manufactured in China, and are already flooding into the U.S. market.

We feel that it is appropriate to include these components critical to our national security and energy independence, within the scope of the expanded Section 301 petition that is currently under consideration.

Failure to do so, could literally wipe out most of the U.S. fabricators that manufacture this equipment. Thereby eliminating the ability to domestically produce these highly specialized components.

The ability to design, engineer, and fabricate components critical to our national security and energy independence is of paramount importance in relation to U.S. innovation. China's trade practices have decimated our ASME qualified companies with dumped, subsidized and predatory pricing practices.

There remain roughly six thousand companies operating within this space that produce components critical to the U.S. economy in times of peace, as well as building defense related articles during times of war. Being a lifer in the steel industry, I can tell you, it was only a couple of decades ago, there were sixteen thousand companies that had ASME credentials.

To close, I would like to provide you with a specific example that demonstrates just how egregious some of our foreign competitors have become. A U.S. fabricator lost an order for a refinery upgrade in Montana where they have a shop in Idaho that has always enjoyed a close relationship to the customer based on service and quality.

Being by far the closest fabricator

with the capability to manufacture such a product, and given the fact that the transportation of such large scale equipment to the job site makes up a substantial portion of the overall cost of the project, the company held a very competitive advantage in winning the job.

The U.S. company quoted a price of 1.9 million dollars installed. And felt this was a very aggressive price based on U.S. plate prices, after the imposition of duties on carbon and alloy plate in March of 2017.

A foreign fabricator took the order for 900 thousand dollars. Which was less then the material cost in the United States.

Making matters worse, a well-respected logistics consultant with experience in ocean shipping, river barging and offloading to the point of installation, confirmed the cost of transportation was 600 thousand dollars.

Clearly this is an outrageous example of dumping and subsidization as no private enterprise could sell components for 300 thousand dollars based on the raw material cost and the steel plate alone.

Thanks again for the opportunity to speak on behalf of American workers and companies that make mission critical components for our energy independence and national security.

MR. BISHOP: Thank you Mr. Stateczny. Our final witness on this panel is Scott Lechner of Zoeller Pump Company.

Mr. Lechner, you have five minutes.

MR. LECHNER: First I want to thank this 301 Committee for considering our position on this important initiative. My name is Scott Lechner and I represent Zoeller Pump Company, a family-owned business.

But more importantly, I represent seven hundred U.S. employees who manufacture just about -- just under 200 million dollars in domestic sales. And we have manufacturing facilities in Kentucky, Indiana, Texas, and Wisconsin, with numerous vendors, local vendors who supply our components to us.

Zoeller manufactures centrifugal water pumps. Specifically product code 8503.00.65. These products move water in every different way from potable drinking water, to industrial pumps, to irrigation pumps, to gray effluent pumps, and yes, even sewage pumps.

And I think everyone is aware of the global importance of moving water. Which is, and will continue to be among the most important natural resources we have globally.

We feel Zoeller is an American success story. Zoeller divisions started in 1866 manufacturing windmills and hand pumps.

And we've been in the water business ever since. Currently 85 percent of our products are still manufactured in the United States.

In fact, we recently made a decision to repatriate a half million motors from Mexico back in the United State for quality considerations and our Made in America campaign. All Zoeller Company is looking for is an even playing field.

Thus, we are in favor of the proposed 301 action. Zoeller is the market leader in sump and sewage pump products in the United States with a dominant market share.

Zoeller products do have acquired IP distinctiveness. As a result, our pumps are the most knocked off products in the industry, with China suppliers even copying our casting part numbers when they copy our pumps.

And as it was stated previously in this hearing from other visitors, it is difficult to take your major customers to court over the IP issues. And in fact, some of our major customers are the ones taking our pumps over to China and saying here, copy these so we can knock them off.

In addition, we have seen China subsidize machined raw material products cheaper then what -- then the per pound raw material costs that we can purchase it at at market pricing.

And for a company -- for a privately owned company that stands on the four pillars of quality, service, innovation, and integrity, this has been hard to comprehend.

Recently, Zoeller has embarked on an Empower the American Worker campaign, which has been quite well received in the marketplace. However, with state mandated laws stating that Made in the USA must use 100 percent U.S. sourced materials, it puts these cheaper import guys pretty much on an even playing field to us as we're 92 to 94 percent made in the USA.

And they can simply throw the flag on the box and say engineered in USA, designed in USA, and things like that. Even though we do manufacture in the USA.

In conclusion, what we're looking for is an even playing field. It is anticipated that the proposed 301 tariffs will help legitimize -- legitimately level the playing field.

Although it may not give Zoeller relief in terms of IP theft, it will make China knock offs and made products less appealing, strengthening our U.S. manufacturing proposition.

And it will result in other manufacturers rethinking decisions and possibly moving jobs back to the United States. We think this can be a boom for others besides just the pump manufacturers like Zoeller Pump Company.

I want to thank you for your time and attention.

MR. BISHOP: Thank you Mr. Lechner. Mr. Chairman, that concludes direct testimony from this Panel.

CHAIR TSAO: Great. Thank you. I want to turn to my colleagues to see if there are any questions?

MR. AMDUR: Again, Alexander Amdur from Customs and Border Protection.

MR. BISHOP: We need you a little closer to your mic, please.

MR. AMDUR: Okay. Again, Alexander Amdur from Customs and Border Protection. I have a question for Mr. Czachor.

You indicate there's only one remaining domestic stainless steel keg manufacturer using domestic stainless steel in the United States. Approximately how long would it take for you to ramp up capacity to meet domestic demand if tariffs were placed on Chinese stainless steel beer kegs?

MR. CZACHOR: All right, even with a large tariff placed on Chinese import kegs, it's unlikely that they would stop importing. It would just be reduced significantly.

Our time to ramp up would be a matter of weeks to months. And we would be able to accommodate a large portion of that.

In addition, there are other suppliers, mainly European and Mexican suppliers that import into this country. The key difference is, it's not subsidized or dumped low-cost steel.

So, the industry would not miss a beat.

MR. MITCHELL: Stevan Mitchell from the Department of Commerce. A similar question for Mr. Feniger.

You indicated that you're the only remaining domestic manufacturer of steel U posts for the lawn and garden industry. And the Chinese manufacturers are currently supplying 85 percent of the U.S. market.

How long would it take for the domestic industry to ramp up capacity to meet domestic demand if tariffs were placed on the import of these products from China?

MR. FENIGER: I have a similar answer to him on the sense of that imports will still continue to happen. But, American Post could ramp up their production levels within two to four months to handle most of, 75 to 80 percent of the domestic market, seeing that we're only running at 35 capacity -- 35 percent capacity today.

And the impact on the consumer would only be 20 to 40 cents per unit additional cost to be able to buy an American product. And over the last ten years, we've seen that that's not an issue, seeing that Ace Hardware has had that in their stores since we opened the doors of our facility.

CHAIR TSAO: Arthur Tsao, USTR. This question is for Mr. Baer.

Mr. Baer, you indicated that you're the only remaining U.S. mass producer of LCD televisions. In your opinion, if tariffs were placed on imports of both the finished TVs and the LCD screens, you know, from China, what would the effect be on consumer pricing?

MR. BAER: I think the effect on consumer pricing at that point would be an increase. Because you would have then eliminated the ability to have a domestic market.

I think the value of having the key component, the panel, which is 70 to 75 percent of the cost of the TV and not available in the U.S., having that component available, being off the list and allowing that to come in without the additional duty allows not only Element but multiple producers to come into this marketplace, employ thousands of U.S. workers and assemble televisions here in the U.S.

MR. SULBY: Ari Sulby, Department of State. Question for Mr. Severson.

What would be the expected impact on U.S. consumers of food waste disposals from China being the subject to the 301 tariffs?

MR. SEVERSON: Yes. Thank you for the question. I think, you know, one thing to look at is we participate in all levels of the marketplace.

From the very aggressive MRO part of the business to builder parts of the business and frankly. So, it's not as if there is one section of the marketplace that is subject to imports or not.

And so frankly, I believe there will be little or no impact based on the fact that we are competing at all of those levels. And have multiple channel partners competing for business in those levels.

MS. PETTIS: Maureen Pettis, Department of Labor. This is a question for Mr.

Stateczny.

Approximately how long would it take your domestic industry to ramp up capacity and meet domestic demand if process industry components imported from China were subject to tariffs?

MR. STATECZNY: Tomorrow. Tomorrow. There is so much underutilization amongst our U.S. fabricators, designers, and engineers.

That it's just heartbreaking to see shops stand empty as barge after barge of Chinese process industry equipment goes through the Houston ship channel for destinations involving LNG installations, ethylene crackers, et cetera.

So there's ample capacity. Our membership stands ready to produce a quality product on time, engineered to the highest standards.

And much of the Chinese material that's coming in actually has to be reworked, because it doesn't meet the AM semi code standard. So actually there's a cottage industry developing amongst some of fabricators where they're actually reworking Chinese -- a product that is not up to standard.

So, it's a very, very quick ramp up period. Literally tomorrow. We stand ready.

MR. SULBY: Question for Mr. Branson. You indicated that adding certain air conditioners, heat pumps, and gas furnaces to the tariff list will not impose significant harm on U.S. consumers.

Can you expand on how you reached that determination?

MR. BRANSON: Certainly. With the tariffs that have already been in place and the additional 301s, there is definitely an increased cost to manufacturing these products.

Even if those parts aren't purchased from China, there is a migration upward in the market price. However, it's -- and we've even seen that pass through.

So certainly there will be an impact to them. But I think it would be -- the benefit to the U.S. economy in having additional workers and manufacturing here domestically is of great value.

And having the products here and the quality that is received is of value as well. But there definitely will be an increase in price.

MS. BONNER: This question is for Mr. Beckwith. I'm Sarah Bonner from the US Small Business Administration.

In your written testimony you indicted that low to mid end consumer scopes are generally not manufactured in the United States. Are these products available from manufacturers outside of Chinese manufacturers?

And also, are there additional issues that might be concerns for U.S. small businesses operating in FTZs that this Committee should be considering?

MR. BECKWITH: Absolutely. So, to answer your first question, China is the only place that makes these scopes. They're not available anywhere else at this point.

MS. BONNER: Um-hum.

MR. BECKWITH: To answer your second question, I absolutely think, and there's going to be testimony presented by a group representing foreign trade zones later this week, but I completely agree with their testimony.

And the fact that a lot of those foreign trade zones were set up so that U.S. companies, particularly small ones like ours could continue to compete with foreign source products.

So when you have, we've mentioned duty inversion earlier, when you have the ability to sell the product as if it is a component of the final product, rather than the duty rate as if it was sold separately, levels the playing field with any who might import that product.

So, and to use my example earlier, and a scope, for example, on an air gun. It can be anywhere between 20 to 40 percent of the value of that air gun, depending upon what kind of scope you're putting on it.

And if the foreign source supplier is taking that same scope from that same factory, putting it on their air gun, and then bringing it in at a 4 percent rate, and yet we are going to have that particular product be a 40 percent up from 4, losing the protection of the foreign trade zone, you really are negating the reason it was set up in the first place.

MS. BONNER: Thank you.

MS. KORKOS: All right. Nicole Korkos from CEA. And my question is for Mr. Lechner.

So you indicted that there are few remaining manufacturers of centrifugal pumps. And that approximately 60 percent of the 2.5 million household sump pumps imported per year come for China.

Approximately how long would it take for the domestic industry to ramp up capacity to meet domestic demand if tariffs were placed on imports of these products from China?

And also, from which countries do the

other 40 percent of imported pumps originate?

MR. LECHNER: Well, I'd go back just -- I've been in this industry for 30 years, and I'd go back 15 years ago and there were 25 competitive pump companies domestically in the United States.

They eventually got bought out by the conglomerates, Pentair, Franklin Electric, ITT, and all these smaller companies got bought out. And consequently all their manufacturing went over to China and Asia.

So, and the other thing that's interesting too, is that the retail shelves, when 15 years ago most of the practical retail shelves had domestic products. When the China product came in, those retails did not go down. They stayed the same.

So, the margins went to these -- to the big merchants. Right now, there's only us and another manufacturer still manufacturing any substantial throughout the United States.

I would venture to say these tariffs

went into effect, the pricing for the first year would be absorbed by the retailers and so forth. It would go up, the pricing would go up.

Those retailers could absorb those. They're making a huge margin on this product now. And I would say in about a year, a year and a half there could be reaction to bringing that manufacturing.

Most of the manufacturing is like in Ohio and some of these places are just skeletons. The manufacturing equipment is even still there.

So, the companies could react rather quickly. Sorry for the long answer.

CHAIR TSAO: Sorry sir, a quick follow up. So in addition to China, are there other countries where these pumps can come from?

MR. LECHNER: There are. I mean, Italy depending on what the exchange rate is, there are some Italian pumps coming in.

But, largely it's China for the United States. When the exchange rate is favorable, you see some Italian pumps come in now and then.

CHAIR TSAO: Thank you.

MR. AMDUR: I have a follow up question for Mr. Baer. So, in your testimony you expressed some concerns about potential circumvention.

And you proposed a potential remedy about a certain -- on tariff shifts. And can you just in plain English describe what you're trying to achieve through these requirements?

MR. BAER: Certainly. The primary issue, at least with respect to our products, is a rule of origin issue. And so the idea is that as we sit here today, Chinese producers are moving subassemblies and components to other countries.

And so countries that perhaps never have assembled or manufactured TVs, you'll see a massive -- assuming these duties go in place, you'll see a massive spike in imports from places like Thailand and Vietnam.

Because what they've done is they've just simply moved a final assembly location from inside of China to inside of a different country. And then shipped the product to the U.S.

And so the key important piece is to define a rule of origin, so to speak, for the 301 duty that says look, if you want to put this penalty in place for these Chinese companies, you can't just let them simply move across a border and do the same thing they're doing, and have no effect.

MR. AMDUR: Okay. Thank you.

MR. BAER: You're welcome. Thank you.

MR. BISHOP: We release this Panel with our thanks. And we invite our next Panel. Please come forward and be seated.

(Whereupon, the above-entitled matter went off the record at 2:46 p.m. and resumed at 2:50 p.m.)

CHAIR TSAO: Good afternoon. For the record we have a new -- we have some new members to the Section 301 Committee.

For the record, my name is Arthur Tsao, USTR.

MR. O'BYRNE: Bryan O'Byrne, Small Business Administration.

MR. SULBY: Ari Sulby, Department of State.

MS. HOWE: Julia Howe, USTR.

MS. SALZMAN: Rachel Salzman, Department of Commerce.

MR. STEPHENS: Andrew Stephens, U.S. Department of Agriculture.

MS. PETTIS: Maureen Pettis, Department of Labor.

MR. AMDUR: Alexander Amdur, U.S. Customs and Border Protection.

MR. BISHOP: Our first witness on this Panel is Nathan Bowen with the National Association of State Departments of Agriculture.

Mr. Bowen, you have five minutes.

MR. BOWEN: Thank you for the opportunity to testify today on behalf of NASDA. My full written testimony has been submitted for the record.

While NASDA appreciates and agrees

with the Administration's findings of China's restrictive economic and trade policies, we are concerned about the potential ramifications to U.S. agriculture. Especially when crop prices are down 40 percent since 2013, and farm income is down 50 percent.

Instead of new tariffs, we believe bilateral negotiations and engaging a coalition of like-minded countries will more effective advance the Administration's goal of free and fair trade with China, while minimizing the risk to agriculture.

NASDA represents the Commissioners, Secretaries, and Directors of the State Departments of Agriculture. State Departments of Agriculture are responsible for a host of regulatory programs, export promotion, and for managing programs that facilitate exports.

It is imperative that U.S. producers not lose ground in the vital Chinese market. China was the second largest export market for U.S. ag products in 2017, as the U.S. sent more then 19.6 billion dollars in exports to China.

While U.S. agriculture has largely benefitted from the more open Chinese markets, serious challenges to fully access the market still exists. And we look forward to working with the Administration to address.

In trade disputes ag products are often the first line of attack. And the current dispute with China is no exception.

For example, just days after the U.S. imposed Section 201 tariffs on solar panels and washing machines, the Chinese government launched an investigation into U.S. sorghum imports. And then imposed a 179 percent preliminary anti-duty -- anti-dumping duty on U.S. sorghum.

And in response to U.S. Section 232 tariffs on steel and aluminum, China announced tariffs of roughly two billion on U.S. food and ag exports.

That same week China proposed levying additional tariffs on U.S. ag and food products, impacting approximately 16.5 billion worth of

U.S. exports. The announcement came just hours after the U.S. proposed implementing 50 billion worth of tariffs in response to this Section 301 investigation.

At a time when crop prices are down and farm income has fallen 50 percent, farmers cannot afford additional tariffs. While China has not yet implemented these proposed tariffs, American agriculture is already starting to see signs of obstruction in the marketplace, including delaying U.S. product entering the country.

NASDA understands, there are legitimate commercial concerns that need to be addressed stemming from this investigation. However, NASDA strongly believes that all bilateral and multilateral negotiating opportunities should be exhausted before the U.S. imposes additional duties on Chinese products.

We urge the U.S. government to negotiate with China in order to avoid a trade confrontation and eliminate the need to impose tariffs. Thus in response to USTR's request, NASDA recommends no products be subject to increased duties, no increase in the rate of duties, and no additional duties be levied at this time.

Trade actions that trigger retaliation, threaten real jobs. And follow this proportionately on agriculture.

Tariffs may propose some short term relief to a few industries, but they will also increase consumer and business costs and lead to retaliation. Instead, NASDA urges and stands ready to support bilateral negotiations to avoid the negative impact of increased tariffs or other restrictions on economic engagement with China.

Moreover, NASDA urges the Administration to pursue full enforcement of existing international and domestic trade rules. Including the initiation of additional WTO cases.

We encourage engagement with our trade partners. And the utilization of regional and global challenges in order to reduce and eliminate trade and investment impediments deployed by China.

In conclusion, while there are legitimate issues for the Administration to address with China, it is imperative these issues be addressed with the coalition of like-minded countries in order to ensure U.S. agriculture producers are able to continue to take advantage of export opportunities with the vital Chinese market.

Again, thank you for the opportunity to testify today.

MR. BISHOP: Thank you Mr. Bowen. Our next witness is Ed Brzytwa of the American Chemistry Council.

Mr. Brzytwa, you have five minutes.

MR. BRZYTWA: Thank you. The American Chemistry Council appreciates the opportunity to testify today.

I plan to use the next few minutes to highlight four key points from our public comments, describe the real world impacts of

China's proposed retaliation on U.S. chemical manufacturers.

First, China's proposed retaliatory tariffs on U.S. chemicals could not be more ill-timed for our industry and our country. We are an 800 billion dollar enterprise with 822,000 workers and 194 billion dollars in announced U.S. investments.

We are the top U.S. exporting industry with 181 billion dollars in exports in 2017. And we expect to have a trade surplus of 73 billion dollars by 2022.

Nearly a third of U.S. chemical manufacturing jobs depend on exports. Given this potential for growth, we are deeply concerned about the impact of tariffs on our industry.

Second, our primary concern is the threat of retaliation by China. Forty percent of the products on China's initial retaliation list relate to chemicals.

These products are largely basic chemicals, plastic resins, and some specialty chemicals as well as some finished forms of plastics. China is a key export market for U.S. made chemicals.

That China has included these products on its tariff list is a recognition of the competitiveness of the U.S. chemicals industry and the challenge it poses to China's own fast growing chemical sector. Enabling a retaliatory trade war will only advantage China's growing industry at the expense of America's production.

China's tariff's will hit the U.S. chemicals industry not once, but twice. By closing the China market both to our exports and to exports of products using chemicals in their production. For example, agricultural goods and automotive products.

The tariffs on downstream products will lead to less demand for those products. And therefore less demand for U.S. made chemicals. ACC estimates that as many as 24 thousand U.S. jobs and the chemicals in downstream sectors would be lost.

Third, we agree that USTR has identified the right set of problems in China. Intellectual property theft and enforced technology transfer are challenging issues for our industry.

However, punitive tariffs against China are not the solution. Neither the threat of tariffs nor their application will change China's mercantilist behavior.

Imposing increased duties on the products in the annex to the Federal Register notice would not be practicable or effective to obtain the elimination of China's acts, policies, and practices. These duties, if applied, would cause disproportionate economic harm to U.S. interests including SMEs and consumers.

Fourth, about five percent of the products in the U.S. annex are related to chemicals. We urge USTR to remove these products from the list and reconsider the inclusion of so many vital inputs that U.S. manufacturers use to further their operations and support American jobs in manufacturing.

I would like to conclude my remarks by sharing a few firsthand accounts from ACC's members on the damaging real world impacts these tariffs would have on their businesses.

One company reports that a number of its U.S. source specialty plastic products are on China's list. The overall direct impact to this company is likely to be into the millions of dollars.

It's also worried about the indirect downstream impact of the tariffs which they expect to be significant. The tariffs will incentivize off shoring. The company anticipates moving the production of these materials to its European or Asian operations.

Some ACC members are specialty polymer producers serving global markets from U.S. based plants and competing with non U.S. suppliers. China's retaliatory tariffs will weaken the competitiveness of the U.S. producers in very important export markets.

Some producers will reduce or end production in the United States in order to maintain access to China's market. And others will be greatly disadvantaged.

The tariffs could also result in significant supply chain interruptions for critical applications such as healthcare and water purification.

A number of ACC members are invested in agricultural crop protection. A 25 percent tariff on U.S. soybean imports to China would lead to loss of earnings and redirection of trade flows to Argentina and Brazil, making the U.S. crop protection market less attractive.

Some ACC members research, develop, and manufacture catalyst, catalyst basis, and absorb into the U.S. and then export to China for use in oil refining processes.

The products would face a 31.5 percent applied tariff to the border of China, contributing tens of millions of dollars in additional duties. Lower cost competitors would gain more Chinese customers, become stronger in China and globally, undermining U.S. competitiveness.

A preferred pathway to solving these problems is constructive, thorough, and sustained negotiations focused on pragmatic solutions to the challenges of China's mercantilist policies.

We are pleased that the U.S. and China have begun to negotiate. We strongly urge both sides to avoid the imposition of tariffs.

We'd welcome the opportunity to discuss alternative ways to change China's behavior in the question and answer period. Thank you for your time.

MR. BISHOP: Thank you Mr. Brzytwa. Our next witness is Joseph Cohen of Snow Joe, LLC.

Mr. Cohen, you have five minutes.

MR. COHEN: Thank you. Good afternoon. I'm Joseph Cohen, the founder and CEO of Snow Joe. I'd like to testify today that imposing tariffs on certain snow removal products would harm American consumers and businesses in the United States. Thank you for this opportunity.

I launched Snow Joe as a junior in high school more than a decade ago. The goal was to help Americans clear out snow during a storm with a better, more affordable tool. When I founded the company, we sold only one product, an electric snow shovel that you could buy for less than $100. Called the Snow Joe, we took our first order with television channel QVC. The product sold out in seven minutes and our company was born.

Fourteen years later, Snow Joe is a thriving and rapidly growing company which creates work for hundreds of Americans and achieves retail sales greater than one quarter billion. We take pride in our continued development of innovative and high-quality outdoor tools that make American consumers' lives easier and safer in the winter months. I have attached, with a copy of the testimony, some example products.

We invest heavily in American R&D and provide work for approximately 300 people, primarily in the greater New Jersey and New York areas. Next month, we are opening a new 277,000 square foot state-of-the-art distribution and test facility in Mahwah, New Jersey that will support at least 100 more jobs. We are also expanding into Washington State with a planned 200,000 square foot facility in 2020.

Because we are a company founded on American ingenuity, Snow Joe recognizes the importance of fair and reciprocal trade and protecting intellectual property rights. We, therefore, appreciate the goals that the administration has set to promote these policy priorities. However, we believe that several of the proposed tariffs would cause undue harm to our customers and to our company without addressing the stated concerns of the administration.

Although Snow Joe snow throwers and

shovels are designed and developed in the United States, they are manufactured in China out of necessity. To be clear, we source what we can from the United States. For example, we produce ice melt in Delaware. But let me explain why we had to turn to China for manufacturing of these snow tools.

When I launched the company, I looked for U.S. suppliers of gas-free powered snow products in the United States but found none. I have not found any such U.S. suppliers over the past 14 years. Today, I am not aware of any significant production of any such products anywhere in the world outside of China.

U.S. manufacturing of our products is out of the question today and here's why. The manufacturing of these powered snow tools in the U.S. would require the building of a new production facility from scratch with massive investment. However, such investment would take years before production would be realized. The seasonal nature of these products, which are generally sold between September and January each year, diminishes incentives for U.S. production. For a small and medium-sized company like mine, such an investment simply is not commercially feasible.

Because Snow Joe's tools are marketed and sold for home use, the primary users of these products are ordinary do it yourself families and individuals looking for a better way to clear out snow. Our customers seek out our affordable products at times when they need them the most, such as during a serious snow storm. The imposition of a significant tariff on Snow Joe's powered snow products would harm our customers who rely on these products during such times of need. Without any alternatives sourcing options, we would be unable to offset the impact of the tariffs by purchasing domestically or from another country. Because of the complexities, costs, and startup time associated with building a new factory in the United States, the limited supply options would persist well into the foreseeable future. The result undermines the stated goals of the administration in proposing these tariffs.

For example, in seeking to address China's trade practices, the administration indicated its intent to target tariffs on products benefitting from China's industrial policy such as Made in China 2025. Snow Joe's consumer snow products are not a focus of China's industrial policies or its efforts to challenge U.S. leadership in high technology sectors, nor is Snow Joe aware of any instances of Chinese intellectual property theft with respect to these products.

Moreover, because there is no known U.S. or significant third country supply for powered snow tools, the imposition of tariffs would essentially result in a tax on U.S. consumers who rely on these products. The proposed tariffs would also disproportionately harm the small and medium-sized businesses such as mine that provide these useful snow removal tools.

For these reasons, Snow Joe respectfully requests that the USTR exclude from its proposed list the specific tariffs highlighted in our submission, which cover electric and cordless snow blowers and snow shovels.

Thank you for this opportunity to present these views today and I'm happy to answer any questions during the Q and A session.

MR. BISHOP: Thank you, Mr. Cohen. Our next witness is Linda Dempsey with the National Association of Manufacturers. Ms. Dempsey, you have five minutes.

MS. DEMPSEY: Thank you. The National Association of Manufacturers, the NAM, is the oldest and largest manufacturing association in the United States, representing more than 14,000 manufacturers, small and large, in every industrial sector in all 50 states. Manufacturing employs 12.6 million U.S. workers and had a record $2.25 trillion in output in

2017, about half of which was exported.

Manufacturers have been energized by the President's commitment to manufacturing opportunities across the country. His leadership in securing tax reform and addressing excessive regulation has helped free manufacturers to grow and invest in America. That leadership has also highlighted the urgency of addressing foreign market distortions that have held our manufacturers back for too long. Nowhere is that focus more important than China, which presents both major challenges and opportunities for our manufacturers.

Consider that our manufacturers sell more to China than to any other country outside of Canada and Mexico and those exports alone support hundreds of thousands of U.S. manufacturing jobs.

U.S. manufacturing goods exports to China have grown five-fold since China joined the WTO, reflecting both China's market openings and economic growth resulting from that accession.

China is now the number one consumer market in the world for cars, food, and many other products, with an economy four times bigger than it was in 2001 and a middle class that has grown by hundreds of millions of new entrants.

Our manufacturers need to tap into that enormous growth to support and create more good paying manufacturing jobs here at home. Yet, our manufacturers have long-faced a wide range of distortive activities in China, including many extensively documented by this investigation. Those barriers limit U.S. exports, distort market conditions in the U.S. and third countries, and result in the theft and mistreatment of U.S. property and investment. Those activities have crippled manufacturers and their workers and urgent solutions are required.

The United States has taken many actions to address these challenges, some successful, others less so, including more than 20 WTO challenges, 150 trade remedy cases, more than 100 Section 337 IP actions, bilateral negotiations, and ongoing work with our allies. While these approaches must remain part of the solution, they are not sufficient and create no framework to bind China to deeper, broader, international rules.

The NAM, therefore, urges the administration to seize the moment with a strong solutions-based approach. As NAM president and CEO, Jay Timmons explained in a letter to the President on January 8, the most effective path forward is a comprehensive and strategic approach that has at its core a modern, innovative, bilateral trade agreement that restructures our economic relationship with China. Such an agreement must eliminate Chinese barriers, raise Chinese standards, and create new rules to prohibit market distorting practices that violate free markets and fair competition and create binding and neutral enforcement to address cheating and violations. This approach represents the best way to treat the disease, not just the symptoms.

We appreciate the administration's efforts to identify and solve these important problems and the clear signal-centering discussions in Beijing.

This Section 301 investigation has certainly raised the level of focus here and in China and we hope it will provide just the opening to move forward aggressively on a strategic new approach, yet the actual imposition of tariffs, themselves, would not solve the underlying problems. All of the U.S. proposed tariffs are on manufactured goods imports and many would impact inputs critical to sustain U.S.-based manufacturing. While tariffs may provide short term relief to some, we are hearing regularly and broadly from manufacturers across the country who are deeply concerned about the harmful, albeit unintended impacts of the proposed tariffs and their impact on manufacturing and jobs. These tariffs would cripple many manufacturers that depend on imports of covered materials that are not available from

U.S. or third country suppliers. These tariffs would increase direct input costs for some manufacturers and their customers, particularly small and medium-sized manufacturers, challenging their ability to remain competitive at home or in third markets.

In short, if tariffs are imposed, manufacturers would face the unenviable choice of incurring a substantial economic loss to foreign competitors or manufacturing overseas to remain competitive. Manufacturers will also be injured by the loss of sales if China imposes its proposed tariffs, nearly 60 percent of which are targeted at U.S. manufactured goods exports.

Chinese proposed tariffs on U.S. agricultural exports would also harm our manufacturers by reducing our opportunity for domestic sales of agricultural equipment and supplies.

If tariffs escalate, so will the harm to manufacturers and their workers. We, therefore, urge the administration to move forward with a strategic solutions-oriented approach to address, once and for all, all of the underlying issues and to put manufacturers and their workers on a fair and competitive playing field with China.

Thank you.

MR. BISHOP: Thank you, Ms. Dempsey.

Our next witness is Clark Packard of R Street Institute. Mr. Packard, you have five minutes.

MR. PACKARD: Mr. Chairman, members of the committee, my name is Clark Packard and I'm Trade Policy Counsel with the R Street Institute located here in Washington, D.C.

The U.S.-China relationship is the single most important geopolitical relationship in the world right now and increasingly so. Getting it right is crucial to future peace and prosperity around the globe. Let me state unequivocally that certain Chinese trade policy practices, including their intellectual property practices, are cause for concern and ought to be addressed. I take USTR Section 301 report at face value but I believe there is a better course of action than the one laid out by the President and USTR, one that is consistent with domestic law and our international trade obligations.

I have significant concerns about imposing unilateral tariffs without first receiving a WTO ruling. This investigation and the proposed remedies are being issued pursuant to Section 301 of the Trade Act of 1974. Section 301 gives the President and USTR the authority to take actions to address unfair trade practices not covered by trade agreements. The law is unique among domestic trade statutes in that the goal of the statute is to open foreign markets abroad and not to curb imports.

For a time, especially during the 1980s, the United States relied heavily on Section 301 to address foreign trade practices. This aggressive unilateralism was viewed skeptically by our trading partners. When the United States and our trading partners began negotiation of the Uruguay Round, the subject of unilateral trade enforcement was a major point of contention. Through negotiations, the United States and the European Commission agreed on what became known as the Round's Grand Bargain. As part of the Grand Bargain, the United States agreed to give up unilateral enforcement of U.S. rights under the WTO in exchange for other nations and trading partners giving up their veto in the dispute settlement system. This commitment is found in Article 22 -- or 23.1 of the WTO's dispute settlement understanding and has been a cornerstone of WTO jurisprudence since 1995.

And it's not just our international legal obligations that impose this requirement. When Congress ratified the Uruguay Round in 1994, it implemented the agreement through the Uruguay Round Agreements Act or the URAA. Through the URAA, Congress required USTR to use the WTO's dispute settlement process for all violations of WTO agreements. The URAA and the binding statement of administrative action that accompanied it, allowed USTR and the executive branch to take unilateral action against foreign trade practices only when those practices fall outside the scope of the WTO agreements. For trade practices that can be addressed within the WTO, imposing unilateral tariffs before bringing the dispute to the WTO is a per se violation of both our international and domestic laws.

Make no mistake, China will challenge our unilateral tariffs and the WTO will sanction Chinese retaliation against American exports. This will make China the defender of the rules-based trading system and the United States will look like the scofflaw in the eyes of the world.

The question then is: Which trade practices violate WTO agreements and what can be addressed through the WTO's dispute settlement?

At the outset, I agree with the administration's decision to bring a WTO dispute against China's licensing regime but would suggest that there are potential remedies within the WTO to address other aspects of the complaint. For these areas, the United States bringing WTO complaints should be expanded and we should bring in Japan, the EU, and like-minded countries into the fold. A broad coalition speaking with one voice has much more moral authority than a rogue unilateral approach.

Jim Bacchus, former Congressman from Florida and former chief judge on the WTO's appellate body, has written persuasively about how the WTO's TRIPS Agreement, as well as China's accession protocol provide ample authority to address most of the United States' complaint. Bacchus has pointed out that the rules contained in the TRIPS agreement are, quote, unique among WTO rules because they impose affirmative obligations but have been, quote, largely unexplored in WTO dispute settlement.

Along with alleged intellectual property abuses and unlawful licensing regime, USTR's report focuses on forced technology transfers. Article 7.3 of China's Accession

Protocol prohibits Beijing from conditioning importation or investment on, among other things, the transfer of technology. This is an explicit prohibition.

Together, the TRIPS Agreement and China's Accession Protocol provide the United States and its trading partners with the unique opportunity to set a strong precedent that these agreements have teeth and can be applied to the changing nature of trade in the 21st century. If the United States were to lose this challenge, it could then reassess how to address unfair and abusive trade practices by China. But haphazard attempts to act unilaterally without first attempting to use the legally prescribed channels will certainly fail. There seems to be a basic believe in this administration that the WTO is an effective organization to deal with China's intransigence. Facts belie this belief. The United States wins more than 90 percent of the cases it brings at the WTO. Likewise, the United States wins a greater percentage of the cases brought against it than most. And finally, China has a good, though not perfect, record of complying with adverse rulings from the WTO's Dispute Settlement Body.

Thank you.

MR. BISHOP: Thank you, Mr. Packard.

Our next witness is Michelle Erickson Jones with Farmers for Free Trade. Ms. Jones, you have five minutes.

MS. JONES: Good afternoon. My name is Michelle Erickson Jones and I am a fourth generation farmer from Montana. I am president of the Montana Grain Growers Association, serve on the Board of Directors for the National Association of Wheat Growers, and am a member of Farmers for Free Trade.

It is my honor to testify today on the impacts of Section 301 proposed tariffs on U.S. farmers, agribusiness, and the entire rural economy. Farmers for Free Trade is a bipartisan nonprofit organization that represents America's farmers, ranchers, and agricultural businesses.

Our members recognize that our livelihood is supported by and benefits from the highly integrated cross-border supply chains that make up the agriculture and food processing industries, serving customers around the globe.

American agriculture is a tremendous global marketing success story. We export 50 percent of our major commodities, such as corn, wheat, and soybeans; 70 percent of fruit nuts; and more than 25 percent of our pork. Exports account for 20 percent of all U.S. farm revenue and rely on strong commercial relationships in key markets, including Canada, Mexico, Japan, the European Union, and, of course, China, the second largest market for U.S. agriculture, accounting for nearly $19 billion in exports in 2017.

U.S. agricultural exports also support over a million American jobs. As such, trade is critically important to the U.S. economy in our rural communities. As I noted publicly in recent months, while many rural American families are optimistic about economic growth under the current administration, there is concern among farmers about trade policies that reduce access to the export markets that we depend on.

Farmers for Free Trade respects the administration's efforts to address China's unfair trade practices, however, we are very concerned about the unintended consequences if the tariffs are placed on Chinese imports under Section 301 of the 1974 Trade Act. Of particular concern is the likely damage to a vital market that I and other farmers depend on.

The Office of the U.S. Trade Representatives has asked whether maintaining or imposing additional duties on a particular product would cause disproportionate economic harm to U.S. interests. With respect to farmers and ranchers, the answer is clear. It will and we are already seeing the effects. This comes at a time when American farmers are currently bearing the brunt of the U.S.-China trade dispute related to Section 232, tariffs on steel and aluminum. The retaliation for these tariffs is imposing a staggering burden on key U.S. farm sectors, including grapes, wine, almonds, walnuts, pistachios, pork, and oranges.

Let me offer a personal example of Section 232 tariffs are raising the costs of capital investments for farmers such as myself. Earlier this year, we priced a new 25,000 grain bin to increase grain storage capacity on our farm. The price was 12 percent higher than an identical bin we built in 2017. As we weighed our options, the initial bid on bin number two expired, so we sought a second bid. This bid was eight percent higher than the initial one just a few weeks prior. A 20 percent increase in the cost of a steel product in just one year. The bin company attributed the increase to a significant increase in their cost of steel. It seemed their domestically-sourced steel suppliers had increased their prices to match the price of imported steel. As a result of this dramatic cost increase and volatility in the market, we abandoned our grain storage expansion project.

The implication of that decision not only harmed my operation, it also hurt my community. A small local construction company lost a project. A U.S. grain bin company missed a sale. And a domestic steel company had one less shipment to send out of their factory.

Now, let me provide some real world examples of the impact of actual and threatened Chinese retaliation on U.S. agriculture from the 232 and pending 301. China is the third-largest export market for fresh cherries from the United States. In 2017, U.S. exporters shipped $119 million of fresh cherries. For California, cherry exports doubled over the past five years and the California cherry industry sees China as the export market with the greatest growth potential, far surpassing Canada as the largest export market for cherries produced in the Pacific Northwest.

Cherries now face a 15 percent retaliatory tariff. The walnut industry is similarly dependent on exports to foreign markets and is now facing a 15 percent retaliatory tariff.

With respect today's hearing, it is important to note that while the Section 301 tariffs are not yet in effect, the U.S. farmer community is already feeling the effects of threatened tariff action, including depressed commodity prices, shipments held up at port, increased inspections, and canceled orders.

The threat hits close to home because U.S. wheat is on China's proposed retaliation list, facing a 25 percent tariff. Last year, the U.S. exported 61 million bushels of wheat worth $459 million to China; $65 million of that came out of Montana alone, a major market for the United States. China also purchases wheat from Australia, Canada, Kazakhstan, and Russia, some of our top competitors. There is no doubt that if retaliatory tariffs are implemented on U.S. wheat, we could lose market share to our competitors who would benefit from a significant price advantage. This would have a major negative impact on U.S. farmers who are already suffering from extended periods of low prices.

Sorry.

Currently, farmers across America are in the field wondering whether the seeds of their planting will produce a profitable crop at harvest time in the fall.

Finally, Farmers for Free Trade urges the administration to take a thoughtful and long-term approach to resolving the Section 301 trade dispute with China.

MR. BISHOP: Thank you, Ms. Jones.

Our next witness is Greg Skelton of SABIC. Mr. Skelton, you have five minutes.

MR. SKELTON: Good afternoon and thank you for the opportunity to comment on the administration's proposed 301 action.

SABIC is one of the world's leading petrochemical manufacturers, currently the fourth-largest petrochemical manufacturer in the world. We have operated in the United States for more than 30 years. We have more than 3,500 employees in the U.S. and operate 14 sites in 11 U.S. sites, with our headquarters for the America's region in Houston. We have ambitious plans for further growth in the U.S., including a proposed $10 billion manufacturing facility in Texas, via a joint venture with Exxon Mobile, which would feature the world's largest ethylene cracker.

As a global company, SABIC attaches high importance to clear enforceable rules for international trade, including for the protection of intellectual property. We are concerned, however, that the administration's proposed action and China's retaliation would have significant negative impact on our business in the U.S. The proposed additional tariffs, if applied, would undermine the competitiveness of our production in the U.S., damage the investment climate for the future expansion of domestic chemical manufacturing, and raise costs for customers and suppliers.

We provided separate business

confidential comments that outline the specific impact of the proposed action on our operations.

Today, I would like to outline in broad terms the reasons why the proposed U.S. action, if implemented, would lead to unintended consequences and result in disproportionate harm to one of the most competitive manufacturing sectors in the United States.

In the proposed U.S. action, we've seen that shale gas revolution has dramatically changed the economics of chemicals and plastics production in the U.S. We've gone from a high-cost producer to one of the most competitive in the world. This has resulted in massive new investment in domestic chemical manufacturing estimated by the American Chemistry Council to total more than $190 billion across the industry. We are one of the companies leading the surge. We have identified North America as a priority region for future growth, as demonstrated by the recent formation of our joint venture with Exxon Mobile on the Gulf Coast. Several additional projects are in the planning stage.

The concern that the proposed U.S. tariffs would undermine the value proposition for this expansion, some of the products on the proposed U.S. tariff list are important inputs to plant construction in the U.S. Imposing additional tariffs on the steel, iron, aluminum, and other equipment items would directly increase costs for new investment in chemical manufacturing.

In particular, SABIC calls for the exclusion of items beginning with HTS code 8419 from the proposed action. This HTS subheading includes large modules that form the building blocks for new construction of petrochemical manufacturing facilities by SABIC and other companies. This modular assembly helps to reduce construction costs and makes the building of multi-billion dollar chemical plants economically viable, particularly given the shortage of available skilled labor in the United States. We anticipate that future plant construction in the

U.S. will require up to 80 percent modularization.

The inclusion of these modules in the proposed action would have a major impact on current and future SABIC investment in the U.S., potentially resulting in planned projects either not going ahead or being constructed outside the U.S. Given the multi-decade operating life of these high-technology, high-wage facilities, the imposition of tariffs and items beginning with HTS code 8419 under the proposed action would risk significant economic losses across the country.

Turning to China's proposed retaliation, as noted previously by the American Chemistry Council, China's list of proposed tariffs has a heavy focus on chemicals and plastics. In part, that is likely a recognition of the competitiveness of U.S. chemicals and plastics manufacturing but it may also result in U.S. manufacturers losing market share in China to Chinese or other foreign manufacturers. SABIC is a significant exporter of potentially affected products to China, particularly polycarbonate plastic. Specific numbers are included in our business confidential submission.

We manufacture polycarbonate in Mount Vernon, Indiana and Burkville, Alabama, locations that rely heavily on the good manufacturing jobs that we provide and that would suffer adverse effects from a prolonged disruption in demand due to higher Chinese tariffs.

If China implements the retaliatory tariffs, we would seek to maintain our market share in China but this may mean moving production out of the U.S. to our existing production facilities in other regions. This would have associated cost impacts for downstream industries in the U.S. such as automotive, electronics, and medical devices that currently source their polycarbonate from our U.S. production.

While it is not the intention of the administration's proposed action to bring negative repercussions to companies manufacturing in the U.S., it is important to factor in the real world impact. Imposing tariffs on the imported modules that we and other companies use to construct new chemical plants in the U.S. would significantly undermine the business case for new investment and undermine economic growth and job creation in local communities.

Chemical and plastics manufacturing is one of the fastest growing industries in the U.S., with a large and growing trade surplus, yet the administration's proposed action and China's announced retaliation would disproportionately affect our industry and the numerous downstream sectors that we supply. SABIC urges the U.S. Government to avoid actions that would adversely affect our current operations and future growth in the United States.

Thank you.

MR. BISHOP: Thank you, Mr. Skelton.

Our final witness on this panel is Josh Kallmer with the ITI Council. Mr. Kallmer, you have five minutes.

MR. KALLMER: Thank you and thanks for having me here for this really important discussion.

ITI is a collection of 66 of the world's most innovative companies, spanning the entire tech sector, hardware, software, services, internet. Every one of our companies is global. Virtually, every one of them does business in China or seeks to do business in China and so, as you can imagine, we have a lot of thoughts about the topic today.

I just have a few -- three points, actually, that I want to make and then I'll leave as much time as possible for questions.

The first is that we have strongly supported the administration initiating and carrying out this investigation. Ever since it joined the WTO and really well before, China has abused the privilege of being a member of the multilateral rules-based system and it is high time that others called them to account.

The report that USTR put out on March 22nd is as good of an example as there exists on the planet of a description of the tapestry of laws, regulations, and other measures that China enacts, often in unwritten form, to put the thumb on the competitive scale against non-Chinese companies and, in particular, fundamentally change the landscape for those trying to innovate and those trying to do business in the technology sector.

And so we commend the administration for taking a pretty significant step to try to redefine the relationship and it is a step that we have tried to be supportive of.

Being supportive of that includes being honest about what we view to be the appropriate way to proceed, especially when it comes to remedies. And this brings me to my second point, which is that tariffs are not the answer.

The reason tariffs are not the answer is because they are a tax. And as we have seen throughout U.S. history, they simply don't work. The thing they do is create pain, create harm, create loss for U.S. industries and American workers. So, whether you're looking at the McKinley era, tariffs of the 1890s, or the Smoot Hawley tariffs of the 1930s, or the chicken tariffs, or the tariffs on steel in 2002, or on tires in 2009, it's hard to say that any of them succeeded in achieving the aims that the administration at the time was setting out to achieve.

The reason they don't work is because ultimately they hurt the very people that they are intended to help. So, the easy case are consumers. When tariffs are placed on consumer products, as they would be under the proposal that is on the table now, that results, simply put, in higher prices for ordinary Americans. So whether you're talking about televisions or dishwashers, or hand-held radios, those are higher prices that Americans pay for.

But in a way, it's the more subtle

impacts that are the most pernicious. And so it is the tariffs on inputs into products that are produced in the United States either for consumption in the United States or, more importantly, for production and export overseas to the 96 percent of the world's consumers that live outside the United States, where the pain is really felt. It's not just higher prices that consumers pay. It's reduced competitiveness in the companies for which they work. And that spells fewer jobs, fewer economic opportunities, fewer export markets.

And then you look at the impact on small businesses. For big companies, dealing with tariffs are a cost of doing business. For small businesses, they can be the difference between in existence and not.

Finally, a lot of unseen impacts on community health providers, on medical equipment, things like dialysis machines, communications gear, the kinds of things that first responders use, these are things where we have a public interest in ensuring supply at affordable rates. When we're talking about putting tariffs on those things, we're talking about reducing the supply.

There is a lot of discussion about potentially sourcing everywhere -- or excuse me, sourcing not from China but sourcing the things that would have tariffs slapped on them from places elsewhere around the globe, it's not that easy. The companies that are engaged both in the production of goods and supply of services have really complex global supply chains that cannot just be picked up and moved. Supply cannot just be rendered from another market. It takes years to renegotiate contracts. It takes years to move physical equipment.

And so the third point I would make, and I see my time is coming to a close, so I will conclude, is that there are other ways of doing this that we support and, in particular, tools involving multilateral pressure, coordination with key allies, doing things that are WTO-consistent that we think, on balance, would have the greatest likelihood of success and help us collective solve what is a deep structural and substantive problem that we are, again, very supportive that the administration has decided to try to address.

Thank you.

MR. BISHOP: Thank you, Mr. Kallmer.

Mr. Chairman, that concludes direct testimony from this panel.

CHAIR TSAO: Okay, I will start the question with SBA.

MR. O'BYRNE: Mr. Brzytwa, we understand that small and medium-sized --

MR. BISHOP: Can you speak more directly into your mike, please? Thank you.

MR. O'BYRNE: We understand that small and medium-sized enterprises account for over 50 percent of ACC's membership. Would you please comment on whether or not you expect any differential or disproportionate impacts on these members versus your larger member companies?

MR. BRZYTWA: Thank you for the

question.

Yes, indeed, I think we anticipate our small and medium-sized members being disproportionately impacted because of the fact that they are having to either import products at higher costs or they're being locked out of markets. I mean for some of the companies, when they choose and export market, they really focus on an export market and if that market disappears, it makes things very difficult for them.

So I think, in just speaking with our members, I know how important the China market is. I know for some products it's ten percent of their overall exports. That would really undermine their operations in the long term if they were retaliated against -- if China retaliated against the United States' chemical companies.

MR. O'BYRNE: Thank you.

MR. SULBY: My question is for Linda Dempsey. Ms. Dempsey, in your statement you stated that urgent solutions are required to deal with the wide range of trade distortive activities in China.

What, in your view, are the steps that the United States should take in order to get the Chinese Government to negotiate and then implement solutions to these distortions in place of imposing the proposed tariffs?

MS. DEMPSEY: So, as I said in my testimony, we are very happy to see that the United States and China are at the negotiating table and that those negotiations will reconvene this week, looking at real solutions and trying to move quickly.

We believe that there are a whole host of issues, obviously, the ones identified in this investigation but manufacturers, obviously, have identified many more in various submissions to this administration. And we believe that we can come -- that the administration and China can come forward quickly to try to resolve some of those. There have been lots of attempts at agreements before. There are fact sheets where China has agreed to things but has not bound itself. There are things that China is doing that we know that we could lock in quickly that would benefit manufacturers in a number of areas. We could see movement along those lines, as well as a staged approach to move forward as quickly as possible on the broad range of issues.

Some will, obviously, be harder but, again, the attention and focus that this administration has brought to this issue I think has added to the ability to get China to the table. But as we've seen in past negotiations with China, in terms of other mechanisms, such as dealing with forced technology transfer, the United States has been negotiating on that issue before in the context of an investment treaty negotiation and the performance requirement discipline. And that discipline would be something that would really do a lot, combined with the national treatment, most-favored-nation treatment to require openness of the investment climate in China really get, in a very strong way, at the technology transfer issues that we are looking at and have been documented in this investigation.

So we are for using all of those tools but also thinking much more innovatively about some of the challenges that have not been disciplined in other types of agreements or that we don't have a template for, things like intellectual property problems. Even where there is a good standard in China, our companies have shown concerns about whether they're getting a neutral dispute settlement forum in the Chinese court system if it's in the hometown of the company that they are bringing the case against. Are there ways that we can address those issues and create neutral patterns for moving forward?

And that's why we've made the recommendation that we really need to get to the table on a comprehensive, cohesive trade agreement-type approach that we do believe could be staged and moved quickly.

MS. SALZMAN: Thank you. My question is for both Mr. Bowen and Ms. Erickson Jones.

So you both highlighted in your statements the retaliation against U.S. agricultural products that is already being experienced as a result of recent U.S. trade enforcement actions.

What additional Chinese actions do you anticipate if the proposed tariffs are put in place?

MS. JONES: Thank you. Some of the additional actions that we are concerned about are not only increased tariffs but also non-tariff barriers to trade, including increased inspections, slowing down movement of goods through the ports, particularly the perishable goods, including fruit have been slowed down significantly, as well as canceling orders. Chinese companies have canceled orders for soybeans as well as in the grape and wine industry; they have also experienced cancellations in recent weeks.

And we are concerned that that behavior will only escalate as the trade war escalates or as these threats of tariffs drag on.

MR. BOWEN: And I would second those comments and also indicate that in addition to the fresh produce sector, we're also seeing things at the border with respect to products like pork going into China. We are already seeing that U.S. pork is now being sampled at 20 percent rather than the previous five percent as it's entering China.

CHAIR BUSIS: Excuse me. Just a quick follow-up on that.

What are the reasons that the Chinese officials have given to our exporters with respect to these new additional measures?

MR. BOWEN: I don't know that those reports have at least filtered to us but we do see that they are happening, at least at an anecdotal level.

MR. AMDUR: I have a question for Mr. Cohen.

So you talked in your testimony that you weren't aware of any significant production of your similar products anywhere in the world outside of China. Could you explain a little more what you mean by significant production and where the production is actually taking place?

MR. COHEN: Sure. So primarily our tools are battery-powered and corded. So you plug them in. So typically, you would find them at a Home Depot or at Lowe's. The industry is relatively new, as a whole. And I think one of the challenges that we've seen with this 301 list that had come out is that where classified and sort of arcane codes that don't really apply to the tools that we make. I mean typically, we'll sell a garden cultivator or a snow thrower. It's meant for a small consumer home, a small home, you know urban area, typical footprint of a home.

For looking at production, there are no sources outside of China that made this pocket of inventory, other than petro or gas-powered equipment, which is something we don't produce.

So there are some domestic manufacturers that make gas heavy equipment but in our segment, it's been relatively new and it's grown so quickly that we don't think the HTS system has sort of caught up with all this new technology that has come out.

And that's been sort of I guess an unintended consequence of this list that had come out that we're sort of wrapped up into this. It's not that there is a source to procure an electric snow blower. It just doesn't exist. We've looked and they're not here.

CHAIR TSAO: This is Arthur Tsao, USTR. This question is for Mr. Packard.

China has been a WTO member since 2001. If you believe in your opinion that China's forced tech transfer policy are inconsistent with the current WTO rules, why do you think that no previous U.S. administrations or any other WTO members, for that matter, have ever sought to challenge these measures before the WTO DSB?

MR. PACKARD: Thanks for the question. I think that the United States has been reluctant. It is my understanding that the United States has been reluctant to expand beyond -- you know to challenge intellectual property practices under the TRIPS Agreement, in large measure, because we needed China's support to deal with broader geopolitical issues, principally, perhaps North Korea. But it seems like there's been a separation in this administration in the sense that we can now talk about trade outside of the context of other geopolitical issues.

So I think that that's been the primary reason. But again, I think that this -- we don't know definitively on the TRIPS Agreement whether or not it would work but my point is we should try it before we sort of throw it out. And I think that that's the smarter approach than acting unilaterally.

MS. PETTIS: Maureen Pettis, Department of Labor. This is a question for Mr.

Skelton.

How would you propose -- how would the proposed tariff affect your workforce, in terms of job loss? You testified that SABIC has operated 14 sites in 11 U.S. States. Are there sites that will be hit harder than others?

MR. SKELTON: Thank you for the question.

Yes, the two sites that would be hit harder than others are our major polycarbonate manufacturing facilities in Mount Vernon, Indiana and in Burkville, Alabama. Mount Vernon is currently our largest U.S. manufacturing site, with more than 1,100 employees on-site.

Thank you.

MS. HOWE: My question is for Josh Kallmer.

You referenced studies about the economic costs of the 2002 and 2009 safeguard tariffs in terms of job loss and consumer welfare. Do you have or are you aware of any studies on the estimated economic cost of the proposed tariff action?

MR. KALLMER: That's a great question. We have been looking into it. I'd be happy to come back to you with a sense of what we've found because it has been something we've been digging into. I can't give any chapter and verse here but I'd be happy to do that. Great question.

CHAIR BUSIS: And a quick follow-up on that. Are you aware of any studies about the economic impact of China's forced technology transfer policy or sort of other unfair trade policies that was discussed in the Section 301 report?

MR. KALLMER: I'm sorry, I got a little bit distracted.

CHAIR BUSIS: That's okay.

MR. KALLMER: Could you repeat the first half of your question?

CHAIR BUSIS: Sure. Are you aware of any economic studies that details the economic cost of China's forced technology transfer policies or the other policy and practices discussed in the USTR's report?

MR. KALLMER: Yes, so I have basically the same response on that one. My colleague reminds me that with respect to the first, there is a study recently done by the Consumer Technology Association and the National Retail Federation that goes into the economic analysis of the tariffs that are on the table now. We'd be happy to pull that and provide it, if you don't have it handy.

And then we'll take back the second question, as well, and see what we can give you there.

MR. BURCH: We thank this panel of witnesses for their testimony. You may now be dismissed.

And we'll take a brief ten-minute break.

(Whereupon, the above-entitled matter went off the record at 3:46 p.m. and resumed at 3:57 p.m.)

MR. BISHOP: Will the room please come

to order?

CHAIR TSAO: Good afternoon. We have new members to the Section 301 Committee. So I will ask each member to introduce themselves.

MR. SULBY: Ari Sulby, Department of State.

MS. HOWE: Julia Howe, USTR.

CHAIR TSAO: Arthur Tsao, USTR.

MS. SALZMAN: Rachel Salzman, Department of Commerce.

MS. MITCH: Sage Mitch, Treasury.

MS. PETTIS: Maureen Pettis, Department of Labor.

MR. AMDUR: Alexander Amdur, Customs and Border Protection.

MR. BISHOP: Our first witness on this panel is Xinze Liu of the China General Chamber of Commerce-USA. Mr. Liu, you have five minutes.

MR. LIU: Thank you.

On behalf of Chinese businesses you asked the China General Chamber of Commerce appreciates this opportunity to provide our comments before this committee.

As of 2017, CGCC's 1,500 Chinese member companies have had over $120 billion in tax revenues in the U.S. and directly employed more than 200,000 jobs, indirectly support over 1 million jobs throughout the U.S. It's our opinion that report made arbitrary assumptions of the facts to reach a predetermined conclusion without any actual evidentiary support.

The tariffs proposed in the report will not only impede decades of progress towards global free trade, but significantly hurt American consumers, American businesses, American jobs, and deter future foreign direct investment into the United States.

The proposed actions in the report would do more than harm than good to the United States and create great uncertainty and unpredictability to U.S.-Chinese business relations. The report disregards the harm caused to the American consumers and key export industries in the U.S. and violates international agreements.

On behalf of Chinese enterprises, we are firmly against the findings and conclusions in the report. We oppose the use of tariff and investment restriction measures as tool for political gain.

First, evidence clearly shows that the proposed $50 billion tariff measure will have significantly higher impact on U.S. consumers than it will hurt Chinese companies. The sanction will hurt U.S. consumers for higher price to end consumers. For example, according to the U.S. Consumer Technology Association, about 47 percent of all TVs sold in the U.S. are imported from China, as are 83 percent of PC monitors and 34 percent of lithium batteries. After the proposed tariffs, American shoppers could expect to pay about 23 percent more for TV and like products. These products represent just a small portion of the 1,300 tech-related imports from China the 301 report has targeted.

More importantly, this does not only

affect the products that are made in China but the overall prices for these products across the board., since the retailers would spread their additional costs of other models.

For our TV example, the U.S. consumers could pay the additional $711 million a year and cut back their total purchase by 7.8 percent.

Second, the tariff will hurt the development of related export industries in the United States. Many U.S. firms rely on imported components
from China. Increased tariffs would hurt their competitiveness in the global market. The currently published HTS of the United States for the steel industries, especially machinery manufacturing industries, contains a large number of the general machinery equipment such as elevators, boilers and baking ovens under the HTS headings beginning with number 840, 841, 842.
The low added the value of these products effectively fills the gap in the U.S. domestic output.

As such, the high tariff imposed will hurt the development of related industries.

Lastly, the punitive measures from the 301 report violate WTO rules and disregard the international rules and guidelines. Extreme tariff measures are unilateral behavior. It was not authorized by WTO obligations and the rules. We urge the U.S. and the Chinese governments to continue with good faith, bilateral negotiation and dialog to settle disagreements. Chinese investments in the United States have brought substantial benefits to U.S. economical development, government revenue, and job creation. As a representative of the business community --

MR. BISHOP: Mr. Liu, your time has expired. Could you please wrap up?

Thank you.

MR. LIU: Thank you.

MR. BISHOP: Our next witness on this panel is Jian Tan and Guiqing Wang of the China Chamber of International Commerce.

Gentlemen, you have five minutes.

MR. JIAN: Thank you. I'm Tan Jian, Deputy Director General of the IP Service Center of China Chamber of International Commerce, which represents 120 enterprises across all industries and sectors in China.

CCOIC strongly opposes US proposed action to increase tariffs on a list of Chinese goods -- Chinese products. First, the proposed action and underlying determination are inconsistent with both the international obligations and the domestic laws of the U.S. By levying an additional duty of 25 percent on Chinese products, the U.S. will act inconsistently with the WTO agreement, including Article 1, the most-favored-nation treatment; and 2, Schedule of Concessions of the GATT 1994, and Article 23 of the Dispute Settlement Understanding.

Moreover, by making determinations without recourse through the WTO dispute settlement procedure, the USTR appears to have acted inconsistently with Section 303 and 304 of the Trade Act of 1974, as the present investigation does involve certain provisions of the WTO agreement.

Second, the underlying determination lacks factual basis and supporting evidence. Foreign enterprises are not de jure or de facto forced to transfer technology in China. There is no causal link between foreign ownership restrictions and/or administrative approval processes, on the one hand, and technology transfer on the other.

B. There is no correlation between investment by Chinese enterprise in the United States and the Chinese industrial policies. Chinese enterprise investment spreads widely across various U.S. industries and motivated by diverse reasons, all consistent with market principles.

The USTR's findings are based on inaccurate factual information and biased assessment of select cases, and disregard the significant contribution of Chinese investment.

C. The U.S. and China share common cybersecurity challenges, which the two countries should collaborate hand-in-hand to deal with.

D. The USTR failed to provide any explanation for its sources and method of calculating the alleged 50 billion U.S. dollars of harm. Until the harm, if any, is accurately assessed, to implement the proposed action would inappropriate.

Third, the proposed action is not in the interest of the United States. As numerous interested parties have demonstrated, raising tariffs will not only hurt U.S. importers, retailers, and downstream industries, but also results in higher cost of living for ordinary Americans and put at risk millions of American jobs tied to trade with China.

The proposed action will also disrupt global industrial supply chain and undermine the multilateral trading system, both of which benefit the United States greatly.

Fourth, the proposed action is counterproductive for purposes of resolving U.S. concerns. Should the U.S. implement the proposed action, it will lead to nothing but confrontation between the two countries.

Fifth, cooperation is only appropriate way to resolve differences. China and the U.S. share a wide range of common interests and goals, which furnish a sound basis for reaching mutually acceptable solutions and, moreover, to resolve differences in a constructive way is supported by public opinion in the U.S. and is expected by the international community.

In conclusion, the proposed action is, first, inconsistent with U.S. international obligation and the domestic laws; 2) unsupported by fact and evidence; 3) not in the U.S. national interest; 4) counterproductive for purpose of resolving differences; and 5) contrary to popular opinion.

The USTR should decline to take such action. Thank you.

MR. BISHOP: Thank you, Mr. Tan.

Our next witness is John Tang of DHH Washington, D.C. law office. Mr. Tang, you have five minutes.

MR. TANG: Good afternoon and thank you for this committee for this opportunity to speak. I am a partner at DHH Law Firm. We are a global law firm with about 1,100 attorneys and 30-some offices worldwide.

For our testimony here, on behalf of ourselves and our clients, we plead with this committee to reevaluate its proposed additional 25 percent tariff across the board on approximately 1,300 products from China, which is approximately $50 billion in new taxes. This action would be detrimental to the U.S. economy, compounded with the fact that this action would not resolve the alleged intellectual property violations. We request that this committee reconsider the onerous, unjust, arbitrary taxation proposed.

First, the proposed action does not

address the alleged IP issues identified in the 301 report. As a U.S.-licensed attorney with many Western clients in China, I believe that intellectual property is one of the most important aspects of doing business anywhere but there is absolutely no correlation between the proposed additional tariffs and the alleged intellectual property issues in the report. The methodology for identifying the 1,300 products is completely arbitrary. It does not even consider protecting IP rights, technology transfer, or innovation.

In other words, the proposed remedy does not the issues presented. Instead, those companies that are subject to the additional 25 percent tax, their downstream customers, and the end user all have to be burdened with the additional tax for nothing they did wrong.

For example, I have a client that manufactures electrohydraulic steering pump assembly. The HTS code for that is 8413.60.0030. It ships to its own subsidiary in the U.S., which then finishes the product and supply it to be used in the Jeep Wrangler. This company employs 26 people in the suburbs of Detroit and has already invested over $6 million in its operations. It is an active member of the community and does not participate in any of the alleged IP issues identified in the 301 investigations. Yet, due to the 25 percent tax increase, this company would either have to withdraw its investments in the U.S., which means job losses in one of the toughest cities in America, or pass on that cost to its customer, which ultimately mean an increase in price of the Jeep Wrangler. My client is just one example in one industry.

Second, the proposed action in the report would not resolve the issues identified in the report. The conclusion in the report are based on flawed presumptions and ignore the facts. The main flaw is this presumption that the Chinese Government controls the actions of the Chinese companies. Chinese investment in

U.S. technology, Chinese acquisition of U.S. technology, the formation of joint venture partners between U.S. and China counterparts are based on a market-driven need. U.S. companies often need capital infusion and Chinese companies often need new product lines.

A report by the Rhodium Group found that in 2017, private investors from China accounted for about 90 percent of the investment in the U.S. In other words, the Chinese Government does not have control over this market.

As a side note, if the tariffs were to actually succeed in limiting Chinese investment in U.S. technology, this would be counterproductive to the fostering of innovation in the U.S. Chinese investments are a major source of capital and venture capital markets in the U.S., especially in Silicon Valley. If this source of capital is stopped, then many innovations will not even exist.

Third, the proposed action would be

detrimental to the U.S. economy. Aside from not actually addressing or resolving the issues identified in the 301 investigations, the proposed action would be detrimental to the U.S. economy. The reciprocal sanctions from China on American agriculture, chemicals, cars, and aircraft products will be felt throughout the U.S.

China has already imposed tariffs on about $3 billion of U.S. products and plans another $50 billion on 106 U.S. products. The president of the Chamber of Commerce in Shanghai warned, in his comments to the Section 301 investigation last year, and I quote, politically driven actions, such as imposing broad tariffs, are likely to result in equally brought counteraction by the Chinese Government. A tit for tat trade war would be damaging for all parties.

For example, one of the prominent products that the Chinese would put restrictions on is soybeans. China is the largest soybean importer in the world, with $34 billion worth last year. A third of that was from the U.S. However, the looming 25 percent import tax on U.S. soybean imports will harm states like Illinois, Iowa, Minnesota, Indiana, Nebraska, and Ohio. Additionally, as previously addressed, American consumers would be the ultimate payer of the increase of 25 percent tax.

For example, according to the U.S. Consumer Technology Association, about 47 percent of all TVs sold in the U.S. are imported from China. After the proposed tariffs, American shoppers could expect to pay about 23 percent more for their TVs. In dollar figures, that means U.S. consumers could pay an additional $711 million a year for their TVs. The key point is that --

MR. BISHOP: Mr. Tang, your time has expired. If you could wrap up, please.

MR. TANG: Okay, I'm sorry.

In conclusion, our law firm urges this committee to consider the negative effects of the proposed actions on us, as U.S. taxpayers and businesses, and urge an alternative negotiated resolution with the Chinese Government over the intellectual property concerns.

Thank you.

MR. BISHOP: Thank you, Mr. Tang.

Our next witness is Guiqing Wang with the China Chamber of Commerce for Import and Export of Machinery and Electronic Products. And Frank Mou, interpreter for Mr. Wang.

Gentlemen, you have five minutes.

MR. WANG: Thank you. Good afternoon. Thank you for giving me the opportunity to appear at today's hearing. I am Guiqing Wang, Vice President of China Chamber of Commerce for Import and Export of Machinery and Electronic Products, or CCCME, which now has nearly 10,000 member companies.

I would like to make the following comments. As for the report of the 301 investigation, China does not have any existing laws preparing for in coming years to transfer technology to their Chinese partners. Companies in China have rarely chosen their business partners and their projects. All business activities, including technology transfers are decisions made by the free will of the executive running the business and mildly driven by the market. Besides this, China will continue its open door policy. President Xi Jinping announced a series of new measures on April 10th, including opening the market access, reaching a more attractive investment environment, stronger protection of intellectual property rights, and expanding imports.

Imports and tariffs more than $300 per tax will harm a large number of Chinese companies, as well as U.S. companies. More than 38,000 companies in China will be affected, including many U.S. companies doing business in China. They comply with the laws when conducting their business and should without intervention from the government. They have done nothing wrong, as accused by this 301 investigation.

However, they become the innocent victims, which is unfair for these companies.

Should the tariffs be imposed, the U.S. retailers and the distributors will be faced with many challenges, including shortage of goods, loss of competitive advantages, and the reduction of coverage profits, and consumers will bear the burden of increased price and the high cost of living.

Additional tariffs will also lead to adjustments in the supply chain and breaking the trade chain because many U.S. manufacturers purchase the components and the materials from China. Thus, it will increase the cost which will carve down the profit and then cause the shutdown of certain companies.

The impacts on companies will also shift to many of U.S. workers. The pressure of increased cost will eventually be passed on to hundreds of millions of U.S. consumers. Therefore, they will be the innocent victims, too.

We noticed that after the U.S. released the proposed list, the Government of China also released a corresponding list in the response. If the trade war ever starts, more U.S. and Chinese companies will suffer.

In summary, import tariffs cannot solve any problems mentioned in the report and it cannot address the trade deficit either. Instead, it will only hurt innocent companies and the consumers in both countries.

We urge the U.S. Government to listen to the wisest of people. Takes the concerns of the companies into account and reconsider the tariff proposals.

We look forward to the two governments strengthening consultations to resolve differences and achieve positive outcomes.

Thank you.

MR. BISHOP: Thank you, Mr. Wang.

Our final witness on this panel is Bo Yi of Southeast University Law School. Mr. Yi, you have five minutes.

MR. YI: Thank you for saving time. I directly start my testimony on the second page of formal statement.

Good afternoon distinguished chairperson and members of the 301 Committee. My name is Bo Yi, Associate Professor of International Trade Law at Southeast University Law School, China.

I would like to give my warmest thanks for the opportunity. I am pleased to submit this oral argument.

My opinion is that the United States should be obligated under international trade law to bring the dispute to the WTO under a settlement understanding, not to unilaterally claim against China and to impose additional tariffs under its domestic law for the following reasons.

Firstly, WTO's dispute settlement mechanism promised WTO members to bring trade dispute involving the WTO agreements and, again, as the members of the WTO, instead of resorting to unilateral trade-related action. However, Section 301 allows the USTR to implement trade-related matter without following formal WTO dispute settlement processes, if USTR determines that the conduct encroaching does not involve a trade agreement.

In 1994, when the United States became one of the original members of WTO, the United States Government issued one statement of administrative action. Most importantly, the statement indicated that the United States would welcome applying Section 301 in a manner which would cover its WTO obligations, indicating that if a Section 301 investigation involves a relation of a WTO agreement, the United States is committed to pursuing formal dispute settlement before the WTO.

In USTR's final report, it concluded that certain acts, policies, and practices of China Government related to technology transfer, intellectual property, and innovation are unreasonable or discriminatory and burden or restrict U.S. Commerce. And USTR law proposes to impose a 25 percent duty covered about United States $50 billion was of China exports to the United States.

And it is the United States position -- appears to be that is unnecessary to bring the instant dispute to WTO's settlement mechanism. However, USTR also announced it had requested consultations with China. This announcement seems to indicate that the USTR considers that at least some of conducting investigated during the Section 301 investigation involves a trade agreement and, therefore, requests resort to the WTO's Dispute Settlement Body.

In accordance with Article 23, paragraph 1 of the Dispute Settlement Understanding of WTO, you can reference footnote, the WTO rules do not permit the United States to unilaterally claim against China and impose additional tariffs without also position from WTO's Dispute Settlement Body. And the Section 301 tariffs could eventually result in retaliatory tariffs from China.

Lastly, if Section 301 investigation does not involve a trade agreement, it will also be ruled and regulated by non-violation claims in GATT WTO jurisprudence. You can read from my first paragraph for saving my time directly on the second paragraph. Thank you.

Because Section 301 investigation does not involve a trade agreement, it is form available to address unfair practices from China that do not relate to the United States regs or delaying benefit under WTO agreement.

In other words, it is unnecessary to resort to dispute settlement processes of WTO when Section 301 investigation does not involve a trade agreement. However, under these circumstances, Section 301 investigation will also be ruled and regulated by non-violation claims in GATT WTO jurisprudence, which means that Section 301 investigation which was not ruled by WTO trade agreement could be claimed by China by virtue of non-violation notification or impairment doctrine in GATT WTO. You can reference Article 23 of GATT 1994.

In conclusion with Article 23 of GATT 1994, the results of Section 301 investigation to China's practice does not relate to the WTO rules or is not subjected by WTO laws. It is also be constructed as one matter, whether or not if conflicted with WTO dispute settlement understanding and China will have legal right to start the implementation of non-violation complainants against the United States under WTO laws.

That is all. Thanks for listening. I will be happy to answer your questions.

MR. BISHOP: Thank you, Mr. Yi.

Mr. Chairman, that concludes direct testimony from this panel.

CHAIR TSAO: Thank you. Department of Commerce, you have the first question.

MS. SALZMAN: Thank you. This question is for Mr. Wang.

MR. BISHOP: Pull your mike a little

closer, if you would, please. Thank you.

MS. SALZMAN: This is Rachel Salzman, Department of Commerce and this question is for Mr. Wang.

You mentioned in your testimony that setting up joint ventures in China is a voluntary action. Doesn't China's Foreign Investment Catalogue have an entire category of restricted sectors, whereby foreign ownership is limited and joint ventures are required?

MR. WANG: Thank you for your question.

The proportion of the ownership of the joint equity ventures is public available information. It is open and transparent. And this regulation does not violate WTO's regulation.

And thirdly, this regulation only covers certain sectors of industry. It does not apply to all joint ventures. In fact, it is a common practice that many countries all have such restrictions for their certain sectors of the industry when the foreign companies invest into these sectors.

As far as I know, United States has such restrictions and you have scrutinies for investment based on the national security concerns. Because they only cover certain sectors of industries, we are still willing to sit down and negotiate and discuss.

April the 10th, Chinese President Xi Jinping made it clear that China will continue its open door policy and it will even relax the entrance of the market, and encourage the investment, and further improve the investment environment.

Let me state one more time that this restriction only covers certain sectors of industry and we are willing to negotiate with the department concerned in those sectors.

And also, this is not directly related to the technology transfer. There was no mandatory technological transfer.

Thank you for your question.

CHAIR TSAO: Just a quick follow-up, sir.

Why are certain sectors -- why would the investment restrictions apply to certain sectors but not others?

MR. WANG: Maybe it would be better for me to answer your question if you can give me an example.

CHAIR TSAO: Oh, no, there's no specific examples. But he did mention that the rules apply to only certain sectors but not others and I'm curious to see what the reasons are.

MR. WANG: Let me give you an example. Let me give you an example of the sector that was covered in the 301 investigation. It is the agricultural products. Even though that's not in my industry as a CCCME, as you know that China is the largest agricultural country in the world. So the security of the grain supply is vital to the survival of the country and stability of the country. And I think if there is any problem in the food supply to China, it will not only disrupt the Chinese security but also the stability of the world. So that's why China set the limits for the investment into the agricultural sectors.

And I think this shows the Chinese responsibility for the security of its own country and also for the stability of the world.

I have more examples but I think this one may be adequate.

Thank you.

CHAIR TSAO: Thank you. Thank you for your response.

MR. AMDUR: I am Alexander Amdur, U.S. Customs and Border Protection. Question for Mr. Tan.

You state in your testimony that United States and China share common cybersecurity challenges. Can you give some examples or give us some more details about this?

MR. TAN: Yes, can I just let my assistant Mr. Ren Qing to answer this question?

MR. REN: First, I want to thank you for the question. I would like to clarify that your question is about not that China and the United States can cooperate and address the challenge. Is that your question?

MR. AMDUR: No, I'm just asking about the language, the specific testimony, the written testimony which states the United States and China share common cybersecurity challenges. If you could, give some more details about which challenges you're referring to.

MR. REN: Okay, thank you very much.

I can recall that in last September and October there are questions from the Section 301 Committee about what kind of common challenges in this area. We have provided many examples to demonstrate that in China -- I mean to ensure that -- to address that Chinese companies also face cybersecurity challenge. The trade secrets and other confidential information also have been stolen or otherwise inferenced by some sort of parties, including from our side of

China. In our submission last October, we provided the detailed written information in this regard.

If you would like to have a look, we can provide to you in our written submission after this hearing. Thank you.

MR. AMDUR: It's really up to you. If you believe that is sufficient and that is already on the record, that's fine. Thank you.

MR. TANG: Thank you.

MR. SULBY: My question is for Mr. Liu. Could you expand upon your argument that increasing tariffs on Chinese imports would raise costs on other similar products that would not be subject to the tariffs? Why exactly do you believe that retailers would spread their additional cost to other models, rather than just passing the cost of the tariffs onto purchasers of Chinese goods?

MR. LIU: So I think it's about industries or the tax. So maybe to funnel to consumers accept the tax to some things.

So about the industries, I think maybe let Mr. Wang help me to answer you.

MR. SULBY: Okay, that will be fine.

MR. LIU: Yes, would you mind if Mr. Wang answer your question?

MR. SULBY: Not at all. Please.

MR. WANG: Let's say there are two similar products and the one product is subject to the proposed tariff, additional tariff, then to the market there would be only the other product available. Even though the supply volume may remain the same but because more purchasers want this product. So it will cause the prices going up.

MR. TANG: Also, if I may add, we heard from Panel 5's testimony that they have seen that when the Chinese import prices were increased, causing those products to have a price increase in the market, they have seen American manufacturers actually raise their prices just to match. So that increases prices for that particular product, really no matter where it's manufactured.

And to answer your question about the retailers, we have clients of the law firm that has retailers and their practice is if one of their product has an increase in cost, in order to spread that cost around and ensure that they have a sufficient profit margin, they'll spread that cost amongst many other products. So you'll see that you won't only affect the particular product that is taxed but it will affect a related product from that particular retailer.

CHAIR TSAO: And just for the record, that was Mr. John Tang.

This question is for Mr. John Tang. You had testified that the conclusion in the USTR Section 301 report is based on flawed presumptions and ignore the facts. But as you know, it is a 200-page document with I think over a thousand footnotes and a detailed examination of Chinese laws and regulations.

Do you have any specific examples of where the conclusions in the report or findings in the report are actually -- are flawed or based on -- or ignore the facts or based on flawed presumptions?

MR. TANG: I don't have specific examples at this point but I would definitely supplement that in my post-hearing comments. But the general idea is that there are certain facts that we look at that there can be two explanations for it.

And we have heard testimony back in October as to both sides but there is really no way to -- how do you say -- to prove either testimony -- the accuracy of the evidence given. And if you can't -- I'm sorry, I'm an attorney. But if you can't show that the evidence is based on solid fact, you can't submit that evidence and reach a conclusion when there is two possible reasons that leads you to a final point.

MR. REN: I supplement answers from Mr. Tang about --

CHAIR TSAO: This is Mr. Ren.

MR. REN: Yes, thank you.

In our written submission, written comments -- this time we prepared 220 pages of written comments. In our written comments, we provide the comments and the findings of the so-called forced technology transfer and also we provide comments regarding the Chinese outbound investments in the United States.

In our comments, we provided concrete examples which was used in the Section 301 report by the United States Trade Representative Office which are not factually correct or the facts cannot support the final findings.

I can give you some examples. For example, regarding the connection, the alleged connection between administrative approval process in China and the alleged forced technology transfer, in the Section 301 report, the USTR appears to consider that in China all of the FIE projects or the establishment of foreign investment enterprises needs to be approved by the Chinese Government. That is not correct.

In 2016, China implemented a reform in

this area. Most of the foreign investment enterprises will need only to go through a record-finding process according to the statistics of the Minister of Commerce of China. Now, only four percent of the establishment of FIE need to be approved by the Government. Only four percent. This is one example.

The second example is about the Chinese outbound investment. In this Section 301 report of the United States -- USTR, one example used by USTR to suggest that the Chinese outbound investment is encouraged by the Chinese Government as a means to acquire foreign advanced technology is that it is a policy of international industrial capacity cooperation. However, it is well-known that most of the industries for which the Chinese Government encourages international industrial capacity cooperation are those industries where Chinese companies enjoy competitive advantages. You can look closely at the policy document. They mention those industries where they encourage industrial international cooperation.

For example, they mention the sectors of textile, construction materials, railway equipment, electricity infrastructures. All these industries are those that Chinese companies enjoy competitive advantages. The purpose is to encourage. It is not acquire. They find technology to share the Chinese technology with other countries.

For the sake of time, I only give you two examples. There are many examples in our written comments. Thank you.

CHAIR TSAO: Thank you, sir, for your response.

And the last question is for Professor Bo Yi. Professor, you have testified on numerous legal issues with respect to the WTO agreement. And you also may be aware that the Government of China has also announced that it intends to impose a $50 billion -- impose additional tariffs on $50 billion of U.S. exports.

In your opinion, if China, the

Government of China imposed these tariffs without going the WTO dispute settlement process, would such measure be consistent with China's WTO obligation?

MR. YI: Thanks for your question. Because according to China foreign trade law it provided that if China face unfair treatment without resolve the trade dispute by much natural trade dispute because China has its domestic law to initiate the retaliatory tariffs from foreign countries that is domestic law provisions.

But however, because China also initiate the WTO dispute case which number is 543, which means that China would like to resolve the trade dispute between United States under the much natural trade dispute mechanism under the framework of WTO law.

Yes, for your question you mentioned that whether China will let the WTO rules but my opinion is that because at current China's activity is against the United States unilaterally claim against China's export production to America, which means that the China Government attitude and opinion is to find the proper methods to resolve this dispute settlement.

But in my opinion, both countries are members of the WTO. To use WTO dispute settlement mechanism to resolve their dispute settlement, that is a proper method.

CHAIR TSAO: Thank you for your response.

Okay, I'd like to thank the panel again. And we've completed Panel 6. I would also like to thank all the witnesses who have traveled far to be here today.

The proceeding is adjourned until tomorrow morning at 0900. Thank you.

(Whereupon, the above-entitled matter went off the record at 4:51 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Section 301 Tariffs Public Hearing

Before: US Trade Representative

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Place: Washington, DC

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