UNITED STATES TRADE REPRESENTATIVE

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301 COMMITTEE

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SECTION 301 TARIFFS PUBLIC HEARING

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THURSDAY
MAY 16, 2019

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The 301 Committee met in the Main Hearing Room of the U.S. International Trade Commission, 500 E Street SW, Washington, D.C., at 9:30 a.m., Megan Grimball, Chair, presiding.

PRESENT
MEGAN GRIMBALL, Chair, U.S. Trade Representative
WON CHANG, Department of Treasury
CAROL HENNINGER, Department of State
BILL JACKSON, U.S. Trade Representative
ELLE O'FLAHERTY, Department of Agriculture
JIM RICE, Department of Commerce
MICHAEL ROGERS, U.S. Trade Representative
TRACEY ROY, Department of Homeland Security, Customs and Border Protection
TONYA SMITH, Small Business Administration
ROGER WENTZEL, U.S. Trade Representative

ALSO PRESENT
BILL BISHOP, International Trade Commission

WITNESSES PRESENT

JAMES ARCHIBALD, Wm T. Burnett & Co.
TOBIAS BAUMGÄRTEL, Sandler Nonwoven Corporation
DAVID CARLSON, Teijin Aramid USA, Inc.
JONATHAN GOLD, National Retail Federation
JOHN HINZ, KTM North America Inc.
RANDOLPH COURT, Information Technology and Innovation Foundation
BENJAMIN KOSTRZEWA, Nestle Waters North America
KEVIN MCMANUS, ConSup North America, Inc.
MATT MOORE, Quality Bicycle Products
GREG PECORARO, American Motorcyclist Association
SCOTT SCHLOEGEL, Motorcycle Industry Council
ROGER SZEMRAJ, Cheese Importers Association of America
PAUL VITRANO, Polaris Industries Inc.

CONTENTS

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

9:28 a.m.

MR. BISHOP: Will the room please come to order?

MS. GRIMBALL: Good morning and welcome. The Office of the United States Trade Representative, in connection with the Interagency Section 301 Committee, is holding this public hearing in connection with the enforcement of U.S. WTO rights arising from the dispute brought by the United States against the European Union and certain EU member states addressed to EU subsidies on large civil aircraft.

Detailed information about this investigation is set out in our notice of April 12th, 2019, which is published at 84 FR 15028.

The purpose of today's hearing is to receive public testimony regarding the proposed determinations to be made by the United States Trade Representative and this investigation, including the proposed tariff action.

The Section 301 Committee will

carefully consider testimony provided at this public hearing. The Committee will also review the written comments, including post-hearing rebuttal comments. All written comments, including post-hearing comments, are due by the date set out in our April notice, which is May 28th, 2019.

As also explained in our notice, the selection of a final list of products will take into account the upcoming report of the WTO arbitrator on the appropriate level of countermeasures.

At this hearing we are pleased to have on the 301 Committee international trade and economic experts from a wide range of government agencies. If you could all introduce yourselves?

MR. JACKSON: My name is Bill Jackson. I'm the Assistant U.S. Trade Representative for textiles.

MR. RICE: Jim Rice, Director, Consumer Goods at the International Trade Administration.

MS. O'FLAHERTY: Good morning, Elle O'Flaherty, Foreign Agricultural Service, USDA.

MR. CHANG: Won Chang, Department of Treasury.

MS. HENNINGER: Carol Henninger, State Department.

MS. GRIMBALL: And I am Megan Grimball from the Office of General Counsel at the Office of the United States Trade Representative.

At this time I will provide some procedural and administrative instructions before we proceed with the remaining panels of witnesses. This hearing has been scheduled for two days and will finish mid-day today.

Including today's panels, these hearings will have consisted of eight total panels with 47 witnesses. Today we will hear from the three remaining panels of witnesses composed of 13 individuals.

The provisional schedule has been posted on the USTR website. We will have a five-minute break in between panels. Each organization appearing at the hearing is limited to five minutes of oral 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 the questions from the Section 301 Committee, are due by Tuesday, May 28th, 2019. The rules and procedures for written submissions are set out in the April 12th 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 asks that a witness conclude a response.

In this regard, witnesses should recall

that they have an opportunity to provide more extensive responses in post-hearing submissions.

No cameras, 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 the conclusion of these hearings.

If you have any questions about the facilities, please feel free to ask guards at the front desk. And with that, we'll begin.

MR. BISHOP: Madam Chairman, our first witness on this panel is Tobias Baumgärtel with the Sandler Nonwoven Corporation. Mr. Baumgärtel, you have five minutes.

MR. BAUMGÄRTEL: My name is Tobias Baumgärtel. I'm the CEO of Sandler Nonwoven Corporation. I appreciate the opportunity to share with you my company's concerns with the inclusion of polyester fibers on the proposed retaliation list.

The Sandler Nonwoven Corporation is a

wholly-owned and operated subsidiary of Sandler AG, a German firm. The U.S. firm began its operations in the U.S. in 2015 with an initial investment of $50 million U.S. dollars. We currently employ 30 people in Perry, Georgia.

My firm currently manufactures non-woven textiles that are used in the production of personal hygiene products. For this investment, Sandler has a partnership with Houston County and the State of Georgia and is committed to expanding from the initial project stage.

Our products are completely unrelated to the civil aircraft industry. This facility is the first stage of a complex, and stage 2 will add an additional product line to expand into new products for a highly innovative and globally active industry.

Manufacturing these products will require the use of domestic and imported polyester fibers, including those that will be subjected to the retaliatory tariffs.

However, this new investment and the

ability of our existing facility is clearly at risk if tariffs are imposed on U.S.-sourced polyester fibers.

As currently proposed, the imposition of retaliatory tariffs would increase costs to Sandler by an estimated $7.4 million U.S. annually. Polyester fibers manufactured domestically are not produced in sufficient quantities to meet the incremental demand our stage 2 production would create at competitive prices and would not necessarily meet the specifications imposed by customers.

To maintain our competitiveness as foreign competitors, we will be unable to pass on this increase to our customers, making the stage 2 investment no longer economical.

Under these conditions, Sandler will no longer be able to proceed with the additional investment. This is particularly problematic because if the ability of Sandler's current operation has always been premised on our expanding our investment and production in Georgia to absorb overhead over a larger production base.

Let me now speak to the future investments and the jobs that are being put at risk.

Sandler is ready to sign contracts for construction machinery to make the 65 million-dollar investment that would create 70 additional jobs at our U.S. facility. We now have to revisit this investment in light of these potential tariffs.

We were also planning to follow up with an additional stage 3 investment to create 40 to 50 more jobs, for a total of 110 to 120 new jobs in Georgia.

It is part of our plan to create a modern technology center involving expertise, serving a variety of markets. With these investments, Sandler will be the fifth-largest private employer in Perry, providing jobs that range from entry-level positions to highly-experienced machine operators and other operational staff, including engineers.

Tariffs on the fibers in question would

in turn impact producers further down the supply chain. Manufacturers that use our inputs to produce adult incontinence products, baby diapers, feminine care items, wet wipes, or other ready-made consumer products will have to source their inputs from foreign suppliers, increasing costs and potentially providing foreign producers of ready-made consumer products with cost advantages.

Inputs of these consumer products are not subject to the proposed tariffs under inputs, and would likely make inroads in the U.S. market at the cost of domestic producers.

Similarly, Sandler's expected exports at 20 percent of the U.S. stage 2 production will be jeopardized. While my firm is committed to expanding our U.S. presence and is prepared to manage through cycling and normal business uncertainties, deliberate policy that target key components of our supply chain present a challenge that we may not be able to overcome.

I hope this will not be the case. We are committed citizens to our community in Georgia and have looked forward to fostering its long-term development through such programs as an apprenticeship program based on the German model.

In summary, imposition of tariffs on polyester fibers would jeopardize our existing production and terminate any future investments in the United States and Georgia, resulting in the loss of the 140 to 150 jobs and investments over a $100 million that my firm is committed to making.

I hope that you can see how such tariffs would alter the economics of producing in the U.S. and would in turn lead to increased imports of heretofore domestically-produced products. Please take this into account as you consider how to structure tariffs and exclusions.

If, despite the concern that I have raised, retaliatory tariffs will be implemented, I would respectfully request that an exclusion be provided for polyester fibers of HTS tariff 55032000 if imported from a manufacturing of nonwovens for hygiene-involved industry. Thank you very much. I will be happy to answer any questions you may have.

MR. BISHOP: Thank you, Mr. Baumgärtel. Our next witness is David Carlson with Teijin Aramid USA, Inc. Mr. Carlson, you have five minutes.

MR. CARLSON: Hello, my name is David Carlson, and I'm the president of Teijin Aramid USA, Inc. Teijin Aramid is member of the Teijin Group, a multinational materials science and healthcare company. Teijin Aramid is the market leader in aramid fiber production, which is a core business for Teijin.

Teijin has invested over $1.5 billion in new aramid fiber capacity and cutting-edge innovations on aramid fibers over the past 18 years. I am here today to speak against tariff on aramid fibers.

Aramid fibers have unique properties that make them indispensable to a wide range of industries, including automotive, protective apparel, telecommunications, and oil and gas production.

While you may have never heard of aramid fibers before now, they are a key input in the manufacturing of products you use daily.

Aramid fibers have unique properties. They are five times stronger than steel and incredibly heat-resistant. Increased duties on aramid fibers from the EU would severely injure a wide range of U.S. industries and put the U.S. economy at a competitive disadvantage in the production of various strategic technologies.

U.S. aramid fiber production capacity is already saturated. Expanding industrial fiber capacity is capital-intensive and time consuming, as evidenced by Teijin building a new 600-million-dollar carbon fiber plant in Greenwood, South Carolina.

That facility is not online yet. U.S. manufacturers will bear the costs of these duties with exponentially growing impacts down the supply chain.

Aramid fibers are used in a wide range of industries, including several critical to the

U.S. economy. For example, U.S. auto manufacturers rely on aramid fibers as part of their work to produce the next generation of cars and trucks to help reduce vehicle weight and increase fuel efficiency.

Tire manufacturers including Goodyear, Continental, and Cooper Tires rely on Teijin's aramid fiber to safely decrease the weight and increase the performance of their products.

Our aramid fibers also go into vehicle coolant and turbo charger hoses through a very lengthy and complex supply chain. We sell our products to converters in small towns across America. These companies sell to a vast supply chain that goes on to produce automotive hoses for the Big Three automobile manufacturers, as well as numerous international auto manufacturers with facilities in the United States.

Without reliable access to aramid fibers, these components, auto production will effectively cease. Additional tariffs are very likely to cause significant damage across the automobile industry supply chains which could take years to overcome.

Potential tariffs on aramid fibers would also increase price and disrupt supply chains in the protective apparel industry, including in the production of ballistic vests and fire-retardant uniforms worn by U.S. first responders.

Teijin Aramid has long been a partner in the production of these vests and has been at the forefront of developing next-generation aramid fibers to make them lighter, safer, and more comfortable.

As aramid fibers moved downstream from fiber production all the way to the final product, negative impacts on costs, supply, and jobs will grow exponentially. Aramid fibers are also important to the telecommunications industry. Modern fiber optic cable designs, essential to 5G development, rely on aramid fibers as the strength member protecting the cable from installation through its life cycle.

U.S. domestic production of fiber optic cables is essential for continued innovation, but also for U.S. national security as Chinese manufacturers seek to dominate the global market for these cables.

Aramid fibers are also critical in domestic oil production. The fibers reinforce spoolable composite pipes, important to the competitiveness of U.S. domestic oil supply.

The industry previously relied on steel pipe to connect oil wells to pipelines, but they were incredibly slow to install. Pipelines reinforced with aramid fiber can be installed 10 times faster. Speed and flexibility are critical to the cost structure needed for the continued investment in our domestic oil capacity.

Pipes reinforced with aramid fibers are also critical in the process of fracking and rehabbing old wells. As you can see, aramid fibers serve a unique purpose in a wide range of industries that are critical to the U.S. economy and domestic manufacturing.

It takes years to engineer and develop aramid fibers products to meet a specific need. A sudden disruption in the expected supply or price of this key manufacturing input will result in the loss of U.S. jobs, increase the cost of U.S. manufactured goods, and potentially disrupt supply chains in many critical industries.

As such, I urge you to remove aramid fibers from any list of goods subject to tariffs in this dispute.

MR. BISHOP: Thank you, Mr. Carlson. Our final witness on this panel is James Archibald with the William T. Burnett & Co. Mr. Archibald, you have five minutes.

MR. ARCHIBALD: Thank you and good morning, Ms. Chair and representatives in the various agencies. Let me apologize at the beginning for the hoarseness of my voice. I'll do my best to overcome that.

Burnett is a family-owned company. We've been in business for about 100 years, 60 years of it in the nonwovens industry. Our headquarters are up the road in Baltimore.

Nonwovens, as was explained to me when I got into the industry 13 years ago, is probably the only industry that is defined by what it is not: nonwovens. That is, it's fabrics that are created by thermal bonding or any other process other than weaving or knitting. That's what nonwovens are.

We have a nonwovens plant in Statesville, North Carolina that employs about 125, and another nonwovens plant in Phoenix.

One of the crucial raw materials for us is the hydrophobic fiber that is within subheading 5503.20, and we would strongly urge that it be removed from the list of proposed items.

This is really a classic case of a small family-owned business getting caught in a crossfire over very large issues, which we recognize the Airbus situation.

This fiber, though, that we use goes into automotive products that make their way into U.S. vehicles. Those, as I suspect this panel is well aware of, those auto specifications from the manufacturers are very strict, call for very high product quality, and the only way we can make what we do make for those customers is to use this proprietary fiber, hydrophobic fiber, that is tending to repel water fiber that we are only able to source from a German source, proprietary fiber that is critical to our operations.

We've looked everywhere, trying to see if we can source it elsewhere, or if we could find a substitute material; we can't. If this is not removed from the heading, the harm to us will be considerable.

We realize this is not the largest issue before this body, but we need about 10,000 pounds of it a month and import it under that section. If it is not to be removed, we would urge the establishment of a process as it has existed in the past, with some of the other proposed actions, to have a specific exclusion.

Lastly, simply we would hope at some point we could have confirmation that two other fibers that we import from the EU out of necessity are not subject to the proposed action. Those are FR Reyon and 5504.10, silica dioxide under subheading 7019.19.90.

While neither of those subheadings appear on the Notice of Hearing and Request, their H2 HTS US differ only slightly from those on the list, and any misunderstanding about their inclusion would certainly impact Burnett's business opportunities and differentiation potential.

Sandler's present CEO concluded his remarks by explicitly and specifically requesting an exclusion for 5503.20.00. That is the particular HTS US we're concerned about, and we wholeheartedly support the testimony of Sandler in all its respects. Thank you very much.

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

MR. JACKSON: Thank you, gentlemen, for appearing this morning and providing your perspectives on the proposed action against these products on the list.

Mr. Baumgärtel, you stated in your testimony that domestically-produced polyester fiber is not available in sufficient quantities and sometimes does not meet the specifications that are required by your customers.

Can you elaborate on the differences between the fibers that you source domestically and the ones that you source from the EU and third countries?

MR. BAUMGÄRTEL: The fibers we are sourcing from Europe are a high-specialty fibers needed for certain products, and the products are built on customer specification.

So in these customers' specifications, the fibers are fixed; there are no other sources we could go to get these fibers from. Even if we would like to do so, it would be a long, long qualification process through multiple steps, and that would take, I would say, years to fully implement and qualify new fibers.

Domestically here, fibers are available; however, these fibers are mainly for technical applications and not for the hygiene industry, and that's a big difference, because whenever you have to match the high standards for, for example, femmecare product, incontinence, or wet wipes, these are different fibers.

Even if these fibers have the same, I would say, denier or decitex, they are different, simply designed for different applications and not suited for our process.

MR. JACKSON: So just to clarify, the particular product that you source from the EU, you're saying that that is not available from U.S. suppliers?

MR. BAUMGÄRTEL: It is not available from U.S. suppliers; that is correct.

MR. RICE: Mr. Carlson, does Teijin Aramid currently produce aramid fibers in the United States, or does it source from other U.S. producers?

MR. CARLSON: So our fibers are

produced in the Netherlands, and then we have different aramid factories in Thailand and Japan as well.

MR. RICE: Do you source anything from the United States?

MR. CARLSON: We don't source and resell anything. Everything we sell we produce ourselves.

MR. RICE: Okay. Is that because there are no producers in the United States?

MR. CARLSON: There is one producer in the United States. The global aramid market is completely saturated. This producer could not pick up the business that we have, and in industries like automotive, oil and gas, the products go to a very specific specification that's not available here, and it would take 24 to 36 months for people to redesign parts to use a competitive material, if it was available.

MR. RICE: Thank you.

MS. GRIMBALL: I have an additional follow-up question. So you mentioned that you source, also, some of the fibers from Thailand and Japan. Can you give us an idea of the percentage or the capacity, rather, of your products that you receive from those non-European countries, and whether those suppliers have the potential to meet your capacity to meet your demand?

MR. CARLSON: So our plant in Thailand makes a different type of aramid; it's called a meta-aramid. It mainly goes into firefighter turnout gear, so it's not an alternative to the para-aramid that comes out of the Netherlands.

And then our other aramid fiber made in Japan is co-polymer para-aramid that also is not a direct replacement for the fiber that we make in the Netherlands.

They have a slight amount of overlap, but the majority -- one, the production facility in the Netherlands is probably 10 times the size of any of our other plants. It's where the majority of our product comes from, and it makes very specific products that have been engineered to meet an end use usually designed in coordination with the customer.

MS. ROY: Okay. Mr. Archibald, in your testimony you state that you are not able to use any other material to substitute for the proprietary hydrophobic fiber HTS 5503.20.00 if you import from Germany.

You stated that you are providing the niche products. Please explain what is unique about the nonwoven products you produce that require their proprietary fiber. If the information is business-confidential, you have the option to submit the information in a post hearing comment.

The ability to off-notice includes appreciate procedures to protect such business-confidential information.

MR. ARCHIBALD: Thank you very much, and I'll answer your question broadly, but then follow it up with a submission confidentially so we can give you more of the detail on that.

Basically, the products that we're referring to here go into automotive applications.

In terms of substitutes, we trial from time to time, and have trialed a good bit on this particular product and application.

The process of creating nonwovens is a delicate one, and there can be problems in the manufacture, often are, and this particular fiber has not created those problems.

In fact, it has enabled us to produce a fiber that meets the difficult specifications of our ultimate customers.

When we've tried to use other sources other than this sole source from the EU, it has been substantial problems, both in the manufacture, in that the end product is QC tested to see if it meets the spec.

I can follow up, as I said, in more detail confidentially or respond more generally if you have a further question now.

MS. ROY: Yes, I do. Are your products subject to any regulatory criteria, for example, FDA or DOT certification that requires the use of this particular fiber from Germany?

MR. ARCHIBALD: No, I don't believe that we are subject to those. There are, of course, NHTSA requirements generally for the automotive area. I will, when I get back to the office, check to see if this particular product is involved. I do not believe that it is.

MS. ROY: Okay. Thank you so much.

MR. BISHOP: We release this panel with our many thanks, and we invite the members of our next panel to please come forward.

MS. GRIMBALL: Thank you. We'll take a five-minute break in between the panels, and we'll begin at 10 o'clock with the next panel. Thank you.

(Whereupon, the above-entitled matter went off the record at 9:55 a.m. and resumed at 9:59 a.m.)

MR. BISHOP: Madam Chairman, our first witness on this panel is Scott Schloegel with the Motorcycle Industry Council. Mr. Schloegel, you have five minutes.

MR. SCHLOEGEL: Great. Well, thank

you, good morning, and I thank the Section 301 Committee and members for my opportunity to testify here today.

My name is Scott Schloegel; I'm the Senior Vice President for Government Relations at the Motorcycle Industry Council, also known as MIC.

MIC's membership consists of more than 600 domestic and international manufacturers, distributors, and retailers of motorcycles, parts accessories, and related goods and services, including insurance, finance, media, and other commercial interests in the motorcycle industry.

We are a nearly $40 billion industry with more than 12.2 million motorcycles in use across the country. MIC members also manufacture all-terrain vehicles, ATVs, and recreational off-highway vehicles, Roves, sometimes called side-by-sides.

The U.S. motorcycle industry, which is still affected by the impacts of the 2008 global financial crisis, cannot afford a trade barrier triggered by an unrelated issues between airplane manufacturers.

Respectfully, the MIC opposes the proposed imposition of tariffs on motorcycles, scooters, components, parts, and accessories.

The European Union, or EU, motorcycle dealers in the United States, including parts, components suppliers, and distributors, have nothing to do with wide-body EU aircraft manufacturing which is what the Committee and the USTR are trying to address.

The MIC supports free and fair trade, and we support the administration's efforts to help level the international playing field by ensuring that our trading partners are not tilting it to their advantage.

However, the answer to this problem cannot be disadvantaging the unrelated motorcycle industry, which would cost the United States both jobs and revenue while simultaneously pricing products out of the United States market.

Yet unfortunately, that's exactly what tariffs of up to 100 percent on the EU motorcycle industry and suppliers would do.

Tariffs are taxes. They are not paid by the foreign countries that you are trying to target. Tariffs are paid by American businesses and American consumers who purchase goods from those countries.

If the proposed tariffs were to go into effect, there would be severe economic consequences for U.S. distributors, retailers, after-market producers, and customers. The majority of those businesses are small- and medium-sized businesses, and their employees would be profoundly negatively affected by tariffs.

The U.S. would suffer lost federal and state revenue, lost income taxes, lost registration fees, lost gas tax revenue, lost consumer choice, and lost access to repair and after-market services due to dealership closures.

The unintended consequence of new tariffs would be greatly increased cost of American-made motorcycles, ATVs, and Roves. American companies also source components and parts from the EU, and a potential 100 percent tariff put on American manufacturers would put American manufactures at a fundamental disadvantage to companies, manufacturing in other parts of the world and exporting to the United States.

Tariffs of up to 100 percent would also encourage purchasing of parts and accessories from China and other countries. We urge the Committee and the administration not to impose tariffs on motorcycle industry imports with harmonized tariff system, HTS codes 8711.40.30 and 8714.10.00.

Tariffs are taxes that our industry simply cannot afford. Thank you.

MR. BISHOP: Thank you, Mr. Schloegel. Our next witness is Greg Pecoraro with the American Motorcyclists Association. Mr. Pecoraro, you have five minutes.

MR. PECORARO: Good morning, Madam Chair and members of the Section 301 Committee. My name is Greg Pecoraro, and I represent the American Motorcyclists Association, a non-profit organization with roughly 215,000 members nationwide.

The AMA's mission is to promote the motorcycle lifestyle and protect the future of motorcycling. We represent the interests of the millions of off-highway and on-highway motorcyclists across the United States.

The 100 percent tariff this office proposes to levy on 500cc to 700cc motorcycles and on motorcycle parts and accessories imported from the European Union would cause excessive and disproportionate economic harm to U.S. interests including small- and medium-sized businesses and consumers. We request that these items be removed from the tariff proposal.

A substantial proportion of our AMA membership includes riders who own and ride motorcycles of 500cc to 700cc displacement, as well as those who rely on parts and accessories from the EU to keep their motorcycles running safely.

In the United States, most motorcycles from 500cc to 700cc are sold through small, independently-owned businesses. The collection of small- to medium-sized dealerships contributes to the employment of a substantial number of Americans.

These dealerships employ individuals from motorcycle sales, after-market equipment sales, clothing and merchandise sales, vehicle maintenance and repairs, and general dealership operations.

In addition to the sales of motorcycles, the sales of parts and accessories are a critical revenue stream that helps keep many of these businesses open year round and serves the needs of their local motorcycling communities.

Should product availability be hindered through the proposed trade sanctions on European-produced motorcycles, many dealerships and related parts and accessories businesses may close, leaving Americans without jobs.

The negative effect of the proposed trade sanctions would cause great harm to the motorcycle industry and spread through the after-market equipment sector, recreation equipment sales, the sports entertainment industry, and further down the line.

But those who will suffer the most under this proposal are the Americans that depend on motorcycle parts from Europe to keep their motorcycles in safe working order. Without access to affordable parts and accessories, or the businesses that supply and install them, motorcyclists will not be able to keep their vehicles on the road.

This, in turn, will negatively affect the vast economic impact motorcycle-based tourism has throughout the country and the countless small businesses that depend on it.

A tariff that threatens to significantly raise the retail cost of these motorcycles, parts, and accessories, or curtail their supply, holds the potential to cause irreversible damage to outdoor recreation and the tens of thousands of families that participate in it.

In addition to the foreseeable harm

that will be done to thousands of American small-and medium-sized business owners and American families, we believe proposing a tariff on a non-aviation product to create leverage in a purely aviation trade dispute is an ill-advised solution.

American motorcyclists are unnecessarily caught in the crossfire of this completely unrelated trade dispute. Since my organization represents millions of motorcycle riding consumers, I can objectively and without vested commercial interest assure you that this action will do more to harm individual Americans than it will do to leverage the European Union.

Again, we ask that items HTS 8711.40.30 and 8714.10.00 be removed from the proposed tariff. Thank you for your time and your consideration of these remarks.

MR. BISHOP: Thank you, Mr. Pecoraro. Our next witness is Paul Vitrano with Polaris Industries, Inc. Mr. Vitrano, you have five minutes.

MR. VITRANO: Good morning, Madam

Chair and members of the Committee. I'm Paul Vitrano, Senior Assistant General Counsel at Polaris Industries, a U.S.-based manufacturer of power sports vehicles and its subsidiary, Indian Motorcycle Company.

I'm here today to respectfully urge USTR to remove motorcycle parts classified in HTS US 8714.10.00 from the list of products for which duties could be imposed pursuant to this Section 301 investigation.

Polaris uses certain motorcycle parts produced in the European Union and all of the Indian motorcycle models that are manufactured in the United States. Most significantly, however, imposition of duties on motorcycle parts and components will harm Polaris in connection with its launch of a new motorcycle platform which is targeted to customers outside the U.S. but largely manufactured in Spirit Lake, Iowa.

On the other hand, any duties imposed on EU motorcycle parts will not impact Polaris' foreign competitors which produce motorcycles outside the U.S., allowing them to continue to source the parts and components from the EU and import the finished motorcycles into the United States without increased costs.

Indian Motorcycle Company was America's first motorcycle manufacturer, founded in 1901 by George Hendee and Oscar Hedstrom. After more than 100 years of both successes and challenges under multiple owners, Polaris acquired the company in 2011 and brought Polaris-engineered Indian motorcycle models to market in 2014.

Indian Motorcycles' century-old American traditions continue today and it proudly supports thousands of jobs in the American Midwest.

Indian Motorcycles' primary motorcycle assembly plant is located in Spirit Lake, Iowa; it's primary R&D facility is located in Wyoming, Minnesota, and its headquarters is located in Medina, Minnesota.

Indian Motorcycle distributes its motorcycles to 185 dealer in the United States and more than 300 dealers in 44 other countries around the world.

Although we sell all of our Indian motorcycle models globally, Polaris sees European and other international motorcycle enthusiasts as prime targets of its newest model, the FTR 1200.

Indeed, we designed the FTR 1200 to compete globally in a segment heavily dominated by European manufacturers. To emphasize the design intent of this new platform, the FTR 1200 was unveiled at the INTERMOT Motorcycle Fair in Cologne, Germany, and its accessory offerings at Italy's EICMA Motorcycle Show.

In fact, Polaris projects that next year over 50 percent of FTR 1200 sales will be outside the United States, thereby contributing to U.S. exports and reducing the trade deficit.

Some of Polaris' EU competitors use the exact parts that Polaris will be importing for its new FTR 1200 platform. Customers consider such parts and components to be desirable, high-end features.

For example, one of the larger value

components that Polaris imports from the EU are Akrapovic exhaust systems produced in Slovenia. Discerning motorcyclists around the world desire Akrapovic exhaust systems due to their quality and unmistakably deeply resonant sounds.

In fact, Polaris specifically decided to co-develop and source the FTR 1200 exhaust from Akrapovic because the model was intended to particularly appeal to customers in the EU and other global markets.

Imposing duties on such parts and components will simply raise the cost to produce the FTR 1200 models in the United States to the detriment of Polaris and its U.S. employees and customers.

Although Polaris stands firmly behind the administration's goal of freer and fairer global trade and the President's commitment to strengthening U.S. manufacturing, for the foregoing reasons Polaris urges USTR not to impose any duties on motorcycle parts under HTS 8714.10.00, which it uses to manufacture motorcycles at its Indian motorcycle factory in Spirit Lake, Iowa.

Indeed, excluding motorcycle parts from Section 301 tariffs will avoid the unintended consequence of providing foreign-based motorcycle manufacturers with a competitive advantage over Polaris and its U.S.-produced motorcycles.

I appreciate the opportunity to testify today and would be happy to answer any questions that you have.

MR. BISHOP: Thank you, Mr. Vitrano. Our next witness is John Hinz with KTM North America Inc. Mr. Hinz, you have five minutes.

MR. HINZ: Good morning. My name is John Hinz, and I'm the president of KTM North America and Husqvarna Motorcycles North America.

Both of these companies are United States distributors for KTM and Husqvarna motorcycle brands, which design, develop, and produce premium-quality motorcycle in Austria.

Approximately 17 percent of the motorcycles we import and sell into the United

States would fall into the 500cc to 700cc category of motorcycles that are under consideration in this proceeding.

KTM and Husqvarna motorcycles account for the majority of motorcycles that will be impacted by any tariff, but all European manufacturers will be impacted by tariffs on motorcycle parts and accessories.

Such tariffs would be detrimental to the American motorcycle industry and to the owners of these motorcycles with regard to safety, maintenance, and ownership value.

Tariffs on 500cc to 700cc European motorcycles and all European motorcycle parts and accessories would cause severe harm to our United States business and our U.S. network of independently-owned and operated dealerships.

In addition to the harmful impact on U.S. business, the tariffs on parts and accessories specifically pose a risk to consumer safety. KTM and Husqvarna Motorcycles are world-renowned brands that have been building a presence in the

United States for over 50 years now.

We have established a network of 335 KTM dealers and 170 Husqvarna motorcycle dealers, all of which are independently-owned, small- and medium-sized American businesses, employing approximately 4,000 Americans.

We currently have approximately 250,000 active customers in the United States and conduct business with more than 1,400 U.S. business partners, many of which are also small- to medium-sized. Each of these businesses would be hurt by the proposed tariffs on motorcycles and motorcycle parts.

Based on decades of personal experience working in the motorcycle industry, I can assure you that tariffs of or near 100 percent would seriously damage our company's ability to do business in the United States.

In addition to our network of dealers and venders, we directly employ 225 men and women here in the United States; therefore, the impact of this tariff at 17 percent of our total U.S.

motorcycle production and all of the European-produced parts and accessories would undeniably result in a loss of American jobs for both our company and on Main Street.

We have also initiated a $30 million expansion to support our business in the U.S. and would be forced to place a hold on this investment.

The proposed tariffs on parts and accessories would have a devastating impact, especially on consumer safety. If our customers cannot afford to service and maintain their vehicles due to the increased costs associated with the proposed tariffs or the need of parts, rider safety will be compromised.

Approximately one-half of our dealer network is exclusive to our brands, or they carry only one other motorcycle brand, so increased tariffs could mean a loss of up to 4,000 U.S. jobs among these dealerships alone.

Many of our remaining dealers would lose significant sales revenues, resulting in even further job loss, and tariffs on motorcycle parts and accessories would affect another $50 million in retail sales by our U.S. small business dealers.

Finally but equally as important, our thousands of customers across the country stand to lose much more than the ability to purchase a new KTM or Husqvarna motorcycle. The loss of our dealer network would eliminate customer access to critical product safety information, warranty, parts and service, as well as access to after-market products and accessories over time.

Current owners would also lose a significant user and resale value of their motorcycle.

All of the economic impacts as stated would have long-term effect, even if the tariffs were imposed only for a short period. KTM and Husqvarna Motorcycles have spent decades developing the economic infrastructure in place today, and it could not be quickly or easily rebuilt after the tariffs were lifted.

The impact of tariffs on motorcycles, parts, and accessories, will be felt across our entire U.S. motorcycle industry.

Ultimately, tariffs on motorcycles and motorcycle parts and accessories will impose an unintended consequence of negatively impacting our 225 United States employees, our 525 U.S. dealers that employee 4,000 U.S. citizens, our 1,400 U.S. venders and business partners and our over 250,000 U.S. customers.

We respectfully ask that you omit European motorcycles between 500cc and 700cc and motorcycle parts and accessories from this trade dispute and avoid causing the very significant economic harms that imposing tariffs on motorcycles undoubtedly would cause to our United States employees, our customers, our dealers, our business, and our industry. Thank you.

MR. BISHOP: Thank you, Mr. Hinz. Our final witness on this panel is Matt Moore with Quality Bicycle Products. Mr. Moore, you have five minutes.

MR. MOORE: Thank you, members of the Committee, for this opportunity to appear and voice our opposition to proposed tariffs with respect to certain bicycle parts in Section 8714.

My name is Matt Moore; I'm the General Counsel for Quality Bicycle Products. We are a leading wholesale distributor to bicycle retailers in the United States. We employ over 700 people in four facilities with our headquarters in Minnesota.

While I was flying out here in Delta's beautiful Airbus 320, I was trying to figure out why the bicycle industry has been affected by every single round of tariffs that have been imposed in various trade issues internationally.

The first round on steel and aluminum tariffs affected U.S. manufacturers of items such as bicycle racks, carrying car racks made in Wisconsin, because their steel input prices increased.

The second round included e-Bikes imported from China, which was the fastest-growing segment of the U.S. bicycle industry, and also the most profitable, and that has been impacted as well.

Round three included many bicycle products imported from China. Round four is everything else that's coming in from China that's imported by U.S. bicycle distributors and resellers.

Today we're talking about a very limited number of products imported from Europe, principally bicycle hubs, quick-release hubs, and free wheels, or more commonly, cassettes, which are the gears on the back of bicycles.

It is our position that these tariffs will not have any substantial impact on the decisions of the EU with respect to civil aircraft industry, and will have a disproportionately adverse effect on the U.S. bicycle industry, especially in combination with all of the other impacts that we are seeing.

The quick-release bicycle hub was actually invented by Tullio Campagnolo in Italy in 1933. That company still exists today and is one of the primary exporters to the U.S. of bicycle hubs.

Still a family-owned business, they really make high-end bicycle products, along with one other company, and they make cassettes as well.

Another company, DT Swiss, which is headquartered, obviously, in Switzerland, also makes hubs that will be impacted by these proposed tariffs because they are manufactured at a factory in Poland.

Imposition of as-yet-undetermined amount of tariffs on these products in Chapter 8714 will be ineffective to influence the European Union, because these companies are not the member states that are involved in the trade dispute over civil aircraft. They are headquartered in Italy or Switzerland.

In effect, the imposition of tariffs on this category of products would shift more sales to online resellers that are actually headquartered in the United Kingdom, one of the countries that is implicated in the WTO decision.

The online seller Wiggle has grown to be a 500-million-dollar company, and its primary emphasis is selling components direct to consumers online, consumers in the United States. These consumers and Wiggle pay no duty, no state or local sales taxes, no income taxes, because most of their sales are under $800, the de minimis amount that has been set by the United States government.

If it's more expensive for importers to import through traditional channels in quantity and pay amount of additional duty, those sales will drop off, and their sales will again go precisely to the place that we're trying to sanction, the United Kingdom.

In addition, the sales will impact 43 jobs at DT Swiss in Colorado, where they make those hubs into bicycle wheels. We have 17 wheel builders in Minnesota that use hubs to create bicycle wheels, over 100,000 wheels last year.

In summary, we cannot survive another round of tariffs. In the alternative, if you must impose a tariff on Chapter 8714, make it a reasonable one of no more than 10 percent. Thank you, and I'm available to answer any questions.

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

MS. GRIMBALL: Thank you. We'll begin with questions in one moment.

(Pause.)

MR. ROGERS: Good morning. First let me introduce myself. I'm Michael Rogers. I'm in the Office of Europe and the Middle East at the Office of the U.S. Trade Representative.

My question is directed to Mr. Schloegel of the Motorcycle Industry Council. Can you elaborate further on how U.S. distributors and retailers would be impacted by imposing tariffs on select motorcycles from the EU?

MR. SCHLOEGEL: Sure, and thank you for that question. Many of the dealerships -- you've got two separate issues, obviously, right? One with the motorcycles themselves, and the other with the parts and manufacturers.

So if you were to put a 100 percent tariff on motorcycles that were coming in from the

EU, that would have obviously, a detriment, a significant impact on the dealerships themselves.

You specifically asked about after-market, is that right? As well? Or no?

MR. ROGERS: Not specifically, but feel free to elaborate.

MR. SCHLOEGEL: Oh, sure. So when it comes to the parts and accessories and putting significant tariffs on those, there are 12.2 million motorcycles that are here in the United States that are in operation right now. All of them need replacement parts; all of them need maintenance. So there is a safety component that comes to having significantly higher tariffs on those goods and services.

People will let their tires go a little bit longer because they're more expensive; they'll let their brakes go a little bit longer because they're more expensive. They may risk not doing other regular maintenance on their motorcycles, and the average person spends roughly $510 per year maintaining their motorcycle, according to our studies.

And so having a 100 percent tariff would make a significant impact on that regular maintenance, especially for low-income and middle-income individuals.

MR. ROGERS: Okay, and if I could just follow up with one more question to you, please. Can you clarify, are there domestic or third-country sources for motorcycles or motorcycle parts covered under the proposed list?

MR. SCHLOEGEL: So I'm not aware of whether there are redundancies in where many of the parts are manufactured in different countries other than in the EU, but what I would say is that for almost all of the parts and accessories -- maybe some of our OEMs here, we've got two of the original manufacturers -- might want to touch on that -- but for just about any motorcycle part, you can buy it from another country.

However, that may not be the same quality as what you're looking to buy. It may not meet the original equipment manufacturer's specs.

It may be something that is less desirable, whether it's from the tonal aspects of the muffler, as Paul touched on, or other aesthetic reasons.

So yes, many of the items that are manufactured in Europe may be manufactured other places; however, going and using those may not be within the OEM spec, and it may be less desirable and of lower quality.

We also have many technologies that are being developed over there with regard to safety, like BOSCH, for example. They are developing advanced rider systems that help out with braking systems and interlock brakes and stability control and things like that.

So those are obviously technologies that, once an OEM puts that on a bike, they hope that that same level of quality and consistency is maintained throughout the life of the bike.

MR. ROGERS: Thanks very much.

MS. GRIMBALL: Any of the witnesses, if there is a question that is directed from members of the Committee, and you would like to answer that question, even if it has not been posed directly to you, please feel free to indicate, and we'll give you the floor.

MS. ROY: This question is for Mr. Pecoraro. Your testimony focuses on motorcycles of a certain capacity, 500cc and 700cc. Are there non-European sources for motorcycles or parts for motorcycles of such capacity?

MR. PECORARO: Thank you. I think that's probably a question that maybe some of our other partnership could answer better than I could.

I can tell you that there are literally hundreds of different types of models of motorcycles, both on-road and off-road, on the market, and our members and other motorcyclists ride a tremendous variety of them.

MR. HINZ: Hello, this is John Hinz with KTM. I can answer that question maybe more succinctly. In this category of 500cc to 700cc motorcycles, KTM and Husqvarna Motorcycles produce a very specific product here. It's a single-cylinder motorcycle, and there are no U.S.

or domestic manufacturers that produce a motorcycle within that range or that specification.

MS. ROY: Okay, thank you.

MS. O'FLAHERTY: And if I can just ask a follow-up to Mr. Pecoraro, you mentioned the sports entertainment industry. Is there any area of that sector that's reliant on motorcycles from the EU?

MR. PECORARO: Again, I don't know what exact bikes are being used in different venues, but the industry is wide range, and people are using a lot of different types of bikes of different kinds all across the country in these different entertainment venues.

MS. HENNINGER: Mr. Vitrano, you noted that Polaris will be importing parts from the EU for its new motorcycle the FTR 1200, and that you're worried about competition in international markets from foreign-made brands who will not have to pay the proposed tariffs. Do other domestic competitors also rely on imported parts from the EU?

MR. VITRANO: I can't speak to the supply chain of the only other domestic motorcycle manufacturer; however, I can say that the FTR 1200 is the only bike of its type that will be manufactured in the United States.

The competitive models against which that bike will be competing are all made by European manufacturers, which is why a significant part of our target market is actually outside the United States.

If I could elaborate on the prior question about entertainment, the FTR 1200, the name FTR is derived from Flat Track Racing, which is the fastest-growing motor sport in the U.S., and the FTR 1200 is the consumer, street-legal version of our FTR 750 race bike, which includes some of the very same components that we're talking about here for the FTR 1200.

MS. HENNINGER: I have a follow-up question. Would Polaris be able to change its sourcing of these parts to domestic or third-country sources, and if so, how long would that take?

MR. VITRANO: I think, theoretically, sure, we could. The challenge here is multifold: because of the design intent of this bike and its performance-oriented nature, the suppliers that we've chosen from Europe were intentionally selected because they provide components that are suited for these types of motorcycles, which again, are unique in the United States. This will be the only model of its type.

In addition, there was a question on the prior panel related to regulatory compliance. Exhaust for our bikes is heavily regulated by EPA, both on air emissions and sound. And so for exhaust as an example, we co-develop the exhaust system for this bike with the supplier in Europe and had to work hard to make sure that we could solve the Rubik's cube of air emissions, sound, quality, and performance, and that was no small feat.

So yes, there are other suppliers in other parts of the globe that make exhaust systems, as an example, but it would be over a year, probably a multi-year process in order to redesign systems to go on this bike and be compliant.

MR. HINZ: Just to add to Paul's comments about Akrapovic, the exhaust supplier; KTM and Husqvarna Motorcycles are also the exclusive importer and distributor for Akrapovic exhaust systems that fit our models, and this would also be detrimental to our dealers' business and our business, if we were unable to import these, or if there was a 100 percent tariff imposed on these exhaust systems for all the reasons that Paul just mentioned.

MR. CHANG: Hi, I'm Won Chang, Department of Treasury. I have a question for Mr. John Hinz, KTM North America. You note that KTM and Husqvarna Motorcycle brand has been building in the U.S. for 50 years. Can you speak to the effect on brand loyalty on the pricing decisions if countermeasures are imposed?

MR. HINZ: Sure. We haven't been building motorcycles here for 50 years; we've been distributing motorcycles here in the United States for 50 years.

In terms of brand loyalty, both of our brands have extremely strong brand loyalty with our consumers. On the KTM side, our main color that represents our brand is orange, and actually our customers are called "orange bleeders," because they have such an affinity for the brand, and there is a price premium today on our motorcycles.

It's anywhere from a 5 to 15 percent price premium on the motorcycles today, but 100 percent tariff would be unsustainable in the face of competition in the marketplace.

So today the motorcycles that are in question, this 500cc to 700cc range, the pricing is somewhere between $10,000 and $12,000 for these motorcycles, so then we're talking somewhere between $20,000 to $22,000 for that same motorcycle, and it's just not sustainable in today's business environment.

MR. VITRANO: If I could add on the brand versus price issue, Indian Motorcycle is a renowned brand as well, and we've done some analysis on price elasticity that I would like to include in our confidential submissions, because I think it may inform the answer to the question.

MR. RICE: Mr. Moore, are there other non-European sources for the hubs and free wheels and cassettes?

MR. MOORE: Thank you for asking that. Obviously, there are many makers of bicycle hubs and cassettes across the world. Two major manufacturers, one headquartered in Chicago, is SRAM Corporation.

However, Campagnolo hubs, rear hubs, and cassettes only work with each other. They have a proprietary spline pattern, and if you want to service a Campagnolo product at your local bicycle shop, you need to buy a Campagnolo replacement cassette. That's why there really is no other source of supply for this unique and respected global brand.

MR. RICE: All right, thank you.

MR. BISHOP: We release this panel with our many thanks, and we invite the members of our final panel to come forward and be seated, and we'll go ahead and take a five-minute break.

(Whereupon, the above-entitled matter went off the record at 10:35 a.m. and resumed at 10:39 a.m.)

MR. BISHOP: Madame Chairman, our first witness on this panel is Benjamin Kostrzewa with Nestle Waters North America. Mr. Kostrzewa, you have five minutes.

MR. KOSTRZEWA: Thank you. My name is Ben Kostrzewa, and on behalf of Nestle Waters North America, Inc., I thank you for the opportunity to testify against the proposed tariffs on products with an HTS code 2201.90, which includes still waters. Nestle Waters is particularly concerned about its potentially impacted product, Acqua Panna, but we believe our views are shared by all products that enter under this code. Nestle Waters is an employer of over 8,000 Americans spread over 45 states. It is one of the largest non-alcoholic beverage companies in the United States, with a product portfolio that encompasses many high quality water brands, including spring, purified, sparkling and mineral waters. We are also one of the largest importers of European waters.

I appreciate the thoroughness of USTR's considerations on these matters. I know that you engage in complex, multi-level deliberations. There are three reasons why the Section 301 Committee should not impose tariffs on water products from Europe. First, the proposed tariff would limit Americans' health beverage choices. Second, would impede investments in the United States and job growth. And third, it would harm the restaurant industry.

First, in an era when nearly half of adults Americans struggle with preventable or chronic diseases related to poor diet, one positive trend is that Americans are drinking few sugary drinks and more water. By swapping out a single sugary drink for a bottle of water every day, the average American could reduce his or her caloric intake by 50,000 calories a year. Since 2013 bottled water consumption has increased by approximately 6 percent, directly reducing the consumption of soft drinks and other less healthy alternatives. Further, average caloric intake from drinks has fallen by 18 percent from their all-time highs. The proposed tariffs, which threaten to increase the cost of non-caloric water drinks, could diminish or halt this trend.

Second, the proposed tariffs would hurt planned investments in the United States economy. Nestle Waters recently relaunched the Acqua Panna brand, having invested millions of dollars and with plans to invest tens of millions of dollars more in the U.S. economy to promote this brand. Nestle Waters’ goal is to double the sales of Acqua Panna, creating new jobs and economic value in the United States. Nestle Waters is directly expanding its U.S. employment, and combined with third-party hiring, the new campaign will create dozens of new jobs. These jobs will evaporate if you impose these tariffs.

Third, Nestle Waters' new investments will support other industries, including in particular the restaurant industry. And tariff increase on these products would trickle down to the restaurant distribution and retail industries, many of which are small businesses that operate across the country. We estimate that the sales from Acqua Panna products would likely generate tens of millions of dollars for revenue in -- businesses in these sectors.

In spite of these potentially harmful effects on the U.S. economy, the proposed tariffs would do nothing to incentivize the EU to change its position on the underlying dispute. Last year, all imports under HTS code 220.90 from Europe totaled only around $22 million, with around 75 percent of that total import by Nestle Waters. But this is a drop in the bucket compared to the aerospace industry and the $11 billion of authorized retaliatory tariffs. Accordingly, given the very real and direct costs associated with imposing these proposed tariffs, we respectfully ask you to refrain from imposing these tariffs on HTS code 2201.90. Thank you for your time and consideration.

MR. BISHOP: Thank you, Mr. Kostrzewa. Our next witness is Roger Szemraj, with the Cheese Importers Association of America. Mr. Szemraj, you have five minutes.

MR. SZEMRAJ: Sorry. I am Roger Szemraj, the director of Government Relations and Legislative Affairs for the Cheese Importers Association of America. We appreciate this opportunity to appear before the Section 301 Committee to express our strong opposition to the proposed increase in tariffs on virtually 80 percent of all cheeses imported into the United States from members of the European Union. The CIAA is a trade association representing companies and individuals responsible for the importation of the majority of cheeses entering the United States. We believe that the inclusion of the listed cheeses, most of which are already subject to tariff rate quotas with significant out of quota tariffs, would be contrary to the interests of American consumers and disruptive to the supply chain that many small- and medium-sized businesses rely on. Further, using tariffs on food and agricultural products in retaliation for measures unfairly benefitting industrial products, exposes U.S. agriculture -- including dairy -- to similar treatment by our trading partners, and is contrary to our long-term support for the negotiation of a comprehensive trade agreement with the EU.

USTR has requested comments in part regarding the specific products that will be subject to increased duties, including whether products listed should be retained or removed, or whether products not currently on the list should be added, and whether increased duties on particular products might have an adverse effect upon U.S. stakeholders, including small businesses and consumers.

We believe that the focus of this hearing should remain on those items and not focus on matters that go beyond the scope of this proceeding. CIAA agrees with the rest of the World Trade Organization description of counter measures where the WTO says, quote, in principle, the sanction should be imposed in the same sector as that in which the violation or other nullification or impairment was found, unquote. We therefore agree with others who have submitted testimony saying that if retaliatory tariffs are imposed, they should be directed at related products. Imposing burdens on other industries not directly involved in the dispute in question is a disservice to efforts to move toward free and reciprocal trade.

As importers, we already pay nearly $100 million in tariffs on cheeses imported from the EU. Increasing tariff rates by as much as 100 percent, in our view, is likely to reduce these revenues and disrupt well established commercial activities. Indeed, it is ironic that the National Milk Producers Federation is advocating for both the retention and expansion of the dairy items listed as they have suffered significant losses when the Mexican government employed the same tactic in retaliation for the United States' imposition of Section 232 tariffs on steel and aluminum. As Tom Vilsack, the CEO of the United States Dairy Export Council noted in a March 31 interview about U.S.-Mexico trade policy, quote, so it's great to talk about steel. It's great to talk about autos. We should talk about those things, but not in the way that creates problems for our farmers and our agriculture -- unquote. We believe the argument holds true with respect to the Airbus dispute. Imported cheeses should not be part of this discussion.

While we understand and respect the concerns raised that the EU does not import sufficient amounts of American dairy products, that is a matter that should be negotiated apart from the Airbus matter. The proposed increase on -- in tariffs on European cheeses and other dairy products have already encouraged the EU to place the American agricultural exports on the EU's retaliation list in the companion Boeing case. The inclusion of cheeses on the final retaliation list here will likely hurt, not help, U.S. efforts to establish a mutually beneficial dairy partnership with the EU, like the one that Mr. Vilsack noted exists with Mexico. Thus, CIAA believes that many of the matters raised by NMPF should be addressed as part of comprehensive trade negotiations between the United States and the European Union.

Many of the listed cheeses are unique to the EU, either as varieties, or by virtue of artisan production processes. Thus, cheeses from sheep's and goat's milk -- like pecorino, manchego, feta and others are not produced in the United States, while many cow milk cheeses are produced utilizing traditional methods that result in cheeses with unique qualities that are sought after by consumers. A tariff increase would be passed on the consumer in the form of higher prices. And as noted, many of these products have no domestic counterpart that would serve consumers as a substitute. Thus, any tariff action taken here would either significantly increase consumer costs, or more likely price the product out of the market, leaving the consumer with less choice in the marketplace.

Cheese importers directly employ a large number of employees. Some individual importers point to hundreds of employees at their companies based in the imported locations -- and other facilities around the United States. We recently heard from representatives of the Food and Drug Administration that approximately 60 percent of all cheeses imported into the United States enters FDA's division of Northeast Imports as cheese supply chains extend far beyond importers to include dock workers, trucking companies, retailers of all sizes and the people who work at these firms -- any reduction in imports would have a particularly adverse impact on importers, custom brokers, wholesalers, shipping companies and their employees.

MS. GRIMBALL: Please conclude. Please conclude.

MR. SZEMRAJ: Thank you. We know that these cheeses are imported under licensing programs that requires importing not -- to import not less than 50 percent of licensed amount of each of the three past five years. Failure to do so would result in the importers permanently losing significant portion of these licenses. So this action potentially has a longer term consequence. I thank you for your time.

MR. BISHOP: Thank you, Mr. Szemraj. Our next witness is Kevin McManus with ConSup North America, Inc. Mr. McManus, you have five minutes.

MR. McMANUS: Good morning, my name is Kevin McManus and I am here today on behalf of ConSup North America, Inc. where I have served as the chief financial officer for the past 16 years. Founded in 1985, ConSup is an importer of European food products based in Lincoln Park, New Jersey. ConSup currently employs 20 fully benefitted employees at our facility in New Jersey, as well as sales personnel in Oklahoma, Virginia, New York, Arizona and Illinois. We are a diverse group that is representative of many American small businesses that form the backbone of our nation's economy.

For over 30 years our company has served as a premier source for some of Germany's finest food products, including soups, mineral water and condiments like cabbage and sauerkraut. However, the largest percentage of our business we import are sweet European biscuits, which have been included on the USTR's preliminary list of products that may be subject to tariffs in the coming months. These biscuits are classified under subheading 1905.31.00 of the Harmonized Tariffs Schedule.

ConSup is the largest importer of German products into the United States. The European biscuits we import are in no way related to the large civil aircraft industry, and our company has received no assistance from the German government or from the EU related to their production. As I will discuss today, a tariff on the European biscuits imported by ConSup does not serve to enforce the United States WTO rights, but rather causes disproportionate harm to ConSup, our employees, and our customers in the United States.

European biscuits have been produced in Germany by a fourth-generation family business for more than 100 years, and imported to the United States by ConSup for more than 15 years. Our biscuits are sold in some of the major retail stores throughout the nation, and enjoyed by Americans, consumers, for personal consumption and as corporate gifts. These biscuits are made with high quality ingredients such as Belgian chocolate, which are unique to Europe. Our main item is a cookie tin that contains 15 varieties of biscuits which are produced at three facilities utilizing different production capabilities and technologies.

The variety of biscuits cannot be produced using a traditional single baking line and each requires complex equipment to form its unique shape, recipe, filling and chocolate decorations. Even if ConSup could produce these biscuits in the United States, doing so would require use of imported ingredients and equipment, which would require a lead time of 12 to 15 months, and an investment of millions of dollars. Moreover, because the biscuits are a food product, moving production to an alternate facility would require extensive qualification, certification and testing, which would lead to additional time and cost. The large capital investment that would be required to produce these European biscuits domestically prohibits the production shifting to the United States. To the contrary, because production of these biscuits is concentrated in Europe, the tariff will only force American Consumers to pay more for this high quality product and cause harm to companies like ConSup that sell in the United States.

The biscuit market is extremely price sensitive, and it is with certainty that, if the proposed tariff on these products take effect at a rate of 100 percent, we will be forced to shut down our business and lay off our hard-working employees -- some of whom have worked at the company for nearly three decades. If ConSup ceases its business, there will also be a negative impact on the many independent sales representatives, longshoremen, logistics workers, truckers and warehouses supported by the sales of our products in the United States. The end result will be fewer jobs and less variety for American consumers in the marketplace. For these reasons we respectfully request that European biscuits be removed from the USTR's preliminary product list, and not subject to any additional tariffs. ConSup's biscuits are unrelated to the United States' objective in imposing these tariffs, and their exclusion will promote the continued success of small businesses like ConSup and the hardworking, middle class Americans we employ. Thank you for your time and consideration.

MR. BISHOP: Thank you, Mr. McManus. Our next witness is Johnathan Gold with the National Retail Federation. Mr. Gold, you have five minutes.

MR. GOLD: Thank you. Good morning. My name is Johnathan Gold and I am the vice president Supply Chains and Customs Policy for the National Retail Federation. Thank you for the opportunity to testify today about the impacts that duties of up to 100 percent will have on American families and American retailers who purchase many of the products imported from the European Union that are on their proposed retaliation list. NRF is the world's largest retail trade association, representing discount department stores, home goods and specialty stores, Main street merchants, grocers, wholesalers, chain restaurants and internet retailers. Retail is the nation's largest private sector employer, supporting one in four U.S. jobs. That's 42 million working Americans. Contributing $2.6 trillion annual GDP, retail is the daily barometer for the nation's economy.

I am going to start by reiterating comments made by others. This is the U.S. -- this U.S. complaint is over aircraft subsidies. The U.S. response is retaliation list that is European producers of a range products that have nothing to do with aircraft production. Not only is this proposed list of no impact to European aircraft manufacturers, most of the products on it are aimed squarely at American families, hitting consumers literally at their kitchen tables. Others are aimed at the clothes they wear. Why should American families be collateral damage in a fight over airplanes with plain and simple tariffs, or taxes? Moreover, many of these items on the proposed list are sold by small to medium sized food and beverage retailers and restaurants. They are not in any position to absorb these duties. So the cost will fall squarely as a tax on their customers. My full list of the HDS numbers that my member care about will be included in the written testimony.

Many specialty cheeses, olive oils, cookies and wines are on the proposed retaliation list are sold to customers of all income levels in many grocery and other food retail stores across the nation. These products are now affordably priced for many consumers. Doubling their costs with tariffs up to 100 percent would remove these products from retail shelves. Similarly, restaurants and other food establishments that specialize in a particular type of European cuisine, such as Italian or French, would suffer as a cost of their imported ingredients, for which there are no acceptable non-EU or American made substitutes, doubles. In fact, the EU is the only source of U.S. imports of Roquefort cheese, stilton cheese, certain green olives and marsala wine. The same applies to EU wine, champagne and spirits products, as many are geographically distinctive products that cannot be made in the United States.

In addition to the food they eat and the beverages they drink, the proposed retaliation list takes aim at the utensils, glasses and dishes on which they serve the food. Ironically, imposition of tariffs of up to 100 percent on these items will push sourcing to countries like China, India and Mexico -- not to U.S. manufacturers. In addition, as we have noted in previous testimony before this committee, it will take some time for retailers to rearrange their supply chains to shift orders to other comparable suppliers.

The proposed list also includes apparel products, including men's wool suits. The average retail price of these suits is currently about $700-750, within the price point of a typical, middle-class customer. Adding tariffs of up to 100 percent would nearly double price, placing the suits well out of the reach of these customers. Many of the other apparel products on the proposed list -- proposed second list of products are imported from all 28 European countries -- not just France, Italy and Spain. Many of these other European countries produce mass merchandise that is sold at low and medium prices -- price points. Therefore, the impact is much wider than the luxury consumer, reaching the full spectrum of the consumer economy. As such, it amounts to a regressive tax on these consumers, for whom such purchases represent a relatively larger share of their incomes than they do for higher income consumers. For example, while some of the sweater pullovers imported from the EU are designer label goods, the largest share is fast fashion for young consumers at accessible price points. Imposition of 100-percent duties would pressure retailers to look at purchases -- to purchase more of these goods from lower-cost suppliers in Asia. Again, not the United States.

The EU is the source of half of all U.S. imports of the handbags on the section two list. These handbags typically retail for about $800. Tariffs of 100 percent would nearly double that to perhaps $1500. Most middle income consumers are willing to pay $800 for a European designer handbag, would not be willing to pay $1500 for that same bag. However, they are fashion statements. And retailers worry that the pressure to procure such bags will lead to an increase in purchases of counterfeits and knock-offs.

Retail consumers are increasingly looking for natural, non-toxic solutions for their homes and personal care. So many retailers have been expanding their product offerings to include home care and self-care products that contain essential oils. This allows them to provide their customers with goods that do not contain toxic chemicals. Retailers anticipate that the imposition of tariffs of up to 100 percent on these items will force a cost increase for the domestic vendors who are importing oils into the United States to be mixed with other products.

Finally, I must reiterate and emphasize that the proposed tariffs would have a particularly negative impact on small and medium sized retailers who would not be in a position to force their suppliers to absorb all or even some of the proposed tariffs. They are also not in a position themselves to absorb new duties of up to 100 percent. The overwhelming majority of retailers and small businesses, with more than 90 -- 80 percent of all retail companies employing fewer than 50 people. These companies employ millions of workers in total, with more indirectly supporting the industry through jobs such as transportation, warehousing and distribution, marketing and advertising industries, in addition to many, many others. If prices are increased at the rates needed to cover 100-percent duties on consumer goods on the proposed list, demand will decrease, resulting in the potential for significant lay-offs for retailers and their business partners.

MS. GRIMBALL: Please conclude, Mr. Gold.

MR. GOLD: Thank you for the opportunity to testify on this important issue. I look forward to answering any questions.

MR. BISHOP: Thank you, Mr. Gold. Our final witness on this panel is Randolph Court with the Information Technology and Innovation Foundation. Mr. Court, you have five minutes.

MR. COURT: Thank you, Madame Chairman, members of the committee. Thank you for allowing me to step in and present testimony prepared by my colleague who wasn't able to be here. ITIF is a non-partisan think tank that focuses on science and technology innovation issues. ITIF is pleased to provide this testimony pertinent to USTR's investigation to enforce U.S. rights regarding the U.S./WTO dispute against the EU and certain member states for their subsidies for the development and launch of civil aircraft.

ITIF endorses USTR's proposed imposition of counter measures in the form of additional tariffs, commensurate with what the U.S. -- with what the WTO's dispute settlement body has found to be adverse effects inflicted on U.S. aerospace competitors as a result of the EU's WTO inconsistent subsidy programs for large civil aircraft. The United States has contested EU subsidies to Airbus at the WTO since 2004, with the WTO finding in 2011 that 80 percent of the alleged improper subsidies given to Airbus were in fact illegal, and the EU provided $18 billion in total subsidized financing to Airbus from 1986 to 2006. The WTO found at the time that the European subsidies were instrumental in enabling Airbus to launch every single model of its large civil aircraft, causing Boeing to lose the sales of over 300 aircraft in global market share.

Yet instead of removing its subsidies

and discontinuing their use, the EU has continued to apply them. In 2018 the WTO found that the EU breached its WTO obligations by providing at least $9 billion in subsidized financing to launch two -- its two largest civil aircraft, the Airbus 380 and A350wxb. The United States has estimated the harm from EU subsidies as totaling $11 billion each year. And a WTO arbitrator is currently evaluating U.S. requests for annual counter measures. The UN and its member states provision of launch aid to Airbus represents an insidious form of industrial subsidization that significantly distorts global markets and injures foreign competitors. The launch aid has allowed Airbus to secure financing from -- on better than commercially available terms. Moreover, repayment of the terms of the loan are often tied to aircraft delivery targets -- meaning that repayment doesn't begin until a number of years after a product's launch, and further that the loans have included terms that, if a product failed to hit pre-determined sales targets, remaining loans on the product would be forgiven.

The prosecution and ultimate resolution of this ongoing dispute with the EU is highly consequential to the future of the U.S. innovation economy and to the broader global economic and trade system. That's because innovation-based industries, such as aerospace, fundamentally compete by introducing new-to-the world products, yet face high up-front fixed costs of design and R&D. For instance, analysts have estimated that development costs of the Boeing 787 Dreamliner exceeded $32 billion. Innovation-based companies must amortize these development costs across large global markets in which they must be allowed to compete -- to equitably compete. Moreover, innovative enterprises depend on profits earned from one generation of innovation to finance investment in the next. They must be able to innovate for the future, which is why the U.S. aerospace industry devotes 8.5 percent of its revenues annually to R&D.

When countries introduce excess

non-market-based competition to the global economy, it introduced non-market-based competition that distorts global markets and harms enterprises that attempt to compete on market-based terms. This competition enables weaker firms to remain on the market, drawing off sales from stronger firms and so depriving them of the financial resources to invest in future generations of innovation. But not only do subsidies like launch aid decrease costs, thus giving a competitor like Airbus a cost advantage, it also enables Airbus to introduce products faster than it would be able to do so otherwise, thus giving the company an advantage, not just on price, but also on time to market.

The implications of this go far beyond the dispute between Airbus and Boeing. The resolution of the conflict will frame the rules of the road and set norms for the competition in the development of advanced technologies that are being closely watched by other nations. China for instance has subsidized its technology sectors to the tune of hundreds of billions of dollars. Such subsidization of advanced technology industries substantially distorts global markets and innovation-based industries. It is time for WTO member nations to remove these practices to preserve the rules-based international trade -- a rules-based international trading system that provides a level global playing field in which enterprises compete through genuine innovation with their products and services consumed on a best-value basis.

The consequences for the U.S. economy are significant as the U.S. aerospace industry is one of the most important. In 2016 the sector's gross domestic output exceeded $265 billion. In --

MS. GRIMBALL: Mr. Court, please conclude shortly.

MR. COURT: Okay. If USTR endorses -- if ITIF endorses USTR's proposed imposition of counter measures in the form of additional tariffs commensurate with the extent of injury inflicted by the EU's WTO inconsistent subsidies, to the largest extent possible additional duties should be placed on goods from industries that have -- have been most directly affected by the EU's launch aid practices. Goods falling under the four-level harmonization tariffs, such as the 8802 and 8803, pertaining to the --

MS. GRIMBALL: Please conclude, Mr. Court.

MR. COURT: Thank you. We will enter the rest on the record.

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

(Pause.)

MS. GRIMBALL: Thank you, we will begin with questions.

MR. WENTZEL: Good morning, my name is Roger Wentzel. I am with the USTR Office of Agricultural Affairs. Thank you for the testimony. This question is directed to Mr. Kostrzewa. Mr. Kostrzewa, regarding EU-sourced water and the impact of tariffs that might affect those imports, I am wondering if you could comment on the extent to which that would be mitigated by an increase in demand for U.S.-sourced water. I believe it's the case that Nestle has a number of other brands that use source within the United States.

MR. KOSTRZEWA: Certainly. Thank you for the question, and good to see you again. So the -- the Acqua Panna brand that we import from the EU is sourced from Italian waters and is seen as a luxury brand. Certainly we are fortunate enough to have lots of -- of water choices in the United States, and that includes brands that are sold through Nestle. We are concerned, though, that by impeding the consumer choices for this luxury brand from Europe, that that would reduce consumer choice and consumer consumption all the way down the line.

MR. WENTZEL: Okay, thank you. I guess just then focusing on the restaurant and retail industry, to what extent would sales of

U.S.-sourced water or maybe water from other import sources outside of the EU, would those mitigate these -- the effect of these tariffs on EU-sourced water? Maybe answering it more broadly, and not just in the case of your particular brand.

MR. KOSTRZEWA: Sure. And again, we are fortunate to have lots of water products that -- including those that are domestically sourced. I think what you could see is an increase in prices as demand for domestic increases. And then, you know, water competes in a diverse marketplace with lots of choices. And so, if you see luxury water brands increase in price, you would see some consumption of other goods and -- including less healthy alternatives. And you could see an increase in prices across the board for restaurants, retailers and distributors.

MR. WENTZEL: Thank you for your comments.

MS. O'FLAHERTY: Hello. Elle O'Flaherty from USDA. My question is for Mr. Szemraj. You note significant concern for importers and supply chains working with imported cheeses, due to potential impact of these tariffs. You mentioned feta cheese. I just note that Wisconsin -- alone produces hundreds of millions of pounds of feta cheese. Would substitution of U.S. cheese products address the needs of these supply chains?

MR. SZEMRAJ: Well, again, I would respectfully point out that we are talking about specialty food products here. And Greek feta is something that is very popular among a lot of people, and to the extent that that is what they want to have -- again, it simply goes to the point of what is the available consumer choice? Something may be an alternate. It may not necessarily be a substitute.

MS. SMITH: Good morning. My name is Tonya Smith. I am with the Small Business Administration and my question is for Mr. Kevin McManus. Mr. McManus, what share of your business do sales of imported biscuits from the EU represent? And if needed, you can submit this information through our post-hearing commitment -- comments, excuse me.

MR. McMANUS: I am willing to address the question now. Approximately 65 percent of our overall sales are attributed to the biscuits.

MS. SMITH: I had a follow-up comment. I just want to make sure this is clear for the record. So in your testimony you mention German biscuits. You also use a broader term, European biscuits. And then I think on page 2 of your testimony you mention that there are three facilities which process these biscuits. So can you confirm whether the German biscuits are just imported from Germany? Or are your biscuits imported from other EU member states?

MR. McMANUS: In -- in the one, our bestselling tin that accounts for -- of the 65 percent of overall business -- accounts for about 60 percent of that 65, and that is all manufactured in Germany. The balance of the 5 percent is also -- some cookies are manufactured in Sweden.

MS. SMITH: Thank you.

MS. ROY: My name is Tracey Roy from US Customs and Border Protection. This question is for Mr. Gold. Mr. Gold, how long does it take for retailers to shift orders to comparable suppliers from different sources, including domestic sources?

MR. GOLD: Thank you for the question. I -- it really depends upon the product, but it typically is going to take months if not years, depending on the product. There is a lot of different things that retailers have to look at. The different requirements you have if it's a food product -- or the food safety rules you have to take a look at -- all the auditing you have to do for the factories. Make sure the factories are, one, who they say they are. Can they produce to your standard of quality? Can they produce the capacity that you need? Is the infrastructure appropriate in the country? Can they handle that influx? So it takes a significant amount of time to shift your sourcing -- whether it's a food product, apparel product, what have you. It's not something that can be done easily and overnight. Again, it takes time to find the appropriate vendor, make sure that, again, they can make the product to you specification -- the quality that you expect, the quantity you expect. So it's not an easy thing you can do overnight. It's going to take months, if not years -- again, depending on the product.

MS. ROY: Okay, thank you. I have one more question if you don't mind.

MR. GOLD: Sure.

MS. ROY: How do you expect retailers to distribute tariff costs across the supply chain?

MR. GOLD: It -- again, this is an individual retailer decision, depending on what they're going to do. At 100 percent tariff, there is no way they are going to be able to absorb that cost. That is going to have to be passed along. They can certainly work with some of their vendors to absorb some of that cost, but the bulk of that will be taken and potentially passed along to U.S. consumers. So at the end of the day, the consumer will be paying some form or fashion of this. We will see a tariff -- price increase as a result.

MS. ROY: Okay. Thank you so much.

MR. CHANG: Hello. Won Chang, Department of the Treasury. My question is for Information Technology and Innovation Foundation. Your submission noted that the section 301 countermeasures should not be imposed on productivity enhancing capital goods, such as ICT products. Can you identify the specific products of your concern? Maybe you can do this through the post-hearing submissions since the person who submitted the report is not here?

MR. COURT: We would be very happy to.

MR. CHANG: Thank you.

MS. GRIMBALL: I would like to thank all the witnesses and members of the audience for their participation in these hearings over the past three days. With that, we -- these hearings are adjourned. Thank you.

(Whereupon, the above-entitled matter went off the record at 11:15 a.m.)