

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF THE U.S. TRADE REPRESENTATIVE

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SECTION 301 INVESTIGATION:
CHINA'S IMPLEMENTATION OF COMMITMENTS
UNDER THE PHASE ONE AGREEMENT

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TUESDAY
DECEMBER 16, 2025

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The Public Hearing convened at the U.S. International Trade Commission, 500 E Street SW, Washington, DC, at 10:00 a.m. EST, Philip Butler, Panel Chair, presiding.

PRESENT

PHILIP BUTLER, USTR, Panel Chair
SARAH BONNER, U.S. Small Business Administration
ANTONIO DOUGLAS, USTR
SUSIE PARK HODGE, USTR
MARY LISA MADELL, Department of Transportation
BEN MILES, Department of Commerce
TOBIAS REYNOLDS, Department of Commerce
SALWA SABA, Department of State
SONJA SCHAEFER, Department of Labor
ANDREW STEPHENS, Department of Agriculture
ANNIE WHITEHURST, Department of the Treasury
ANNE YU, Department of Health and Human Services
MICHELLE YANG, USTR
SHELLY ZHAO, USTR
JING JING ZHANG, USTR

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WITNESSES PRESENT

SAMUEL CROWELL, American Seed Trade Association
JOSH GACKLE, American Soybean Association
GEOFF COOPER, Renewable Fuels Association
STEPHEN EZELL, Information Technology and
Innovation Foundation
ED BRZYTWA, Consumer Technology Association
JOHN OWENS, MECO Corporation
ED STEINER, Sandler, Travis & Rosenberg, P.A., for
Harlan Stone of HMTX Industries LLC
RICHARD BUCKLEY, Almatris Inc.
DAVID HULL, Precision Components
STAN McCOY, Entertainment Software Association
DR. SANDRO STEINBACH

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

10:02 a.m.

CHAIR BUTLER: Good morning and welcome.

The Office of The United States Trade Representative, in conjunction with the Interagency Section 301 Committee is holding this public hearing in connection with the Section 301 investigation of China's implementation of commitments under the Phase One Agreement.

In accordance with the specific direction of the president, the United States Trade Representative initiated this investigation on October 24th, 2025, and a Federal Register notice published on October 28th, 2025 announcing this initiation. USTR also invited written comments, and announced this hearing.

The October 24th notice invited comment on a number of issues regarding China's implementation of commitments under the Phase One Agreement. Specifically whether China's failure to implement commitments under the Phase One Agreement denies rights of the United States, or

1 an act, policy, or practice of China denies benefits
2 to the United States under the Phase One Agreement.

3 The burden or restriction on U.S. commerce
4 resulting from any non-implementation by China, and
5 what action, if any, should be taken to address
6 China's non-compliance. The October 24th notice
7 is available on USTR's web page under the Section
8 301 investigations page, and is published in the
9 Federal Register at 90FEDREG48733.

10 The purpose of this hearing is to receive
11 public testimony regarding the issues raised in the
12 October 24th notice. The Section 301 Committee
13 will carefully consider today's testimony, as well
14 as all written comments in response to the Federal
15 Register notice, including post hearing comments.

16 Because this hearing will last one day,
17 all written comments, including post hearing
18 comments, are due December 23rd, 2025. Consistent
19 with the rules and procedures set forth in the
20 October 24th Federal Register notice, witnesses
21 have provided USTR and the Section 301 Committee
22 with a summary of their testimony in advance of

1 today's hearing.

2 Witnesses have also provided USTR and the
3 Section 301 Committee with their full testimony.

4 After the Section 301 Committee has completed its
5 work, the Committee will make a recommendation to
6 the U.S. Trade Representative on whether the acts,
7 policies, and practices are actionable under the
8 statute.

9 If the U.S. Trade Representative
10 determines actionable acts, policies, and practices
11 exist, the U.S. Trade Representative will determine
12 whether action is appropriate, and if so, what
13 action to take. We are pleased to have
14 international trade, and economic experts from a
15 range of U.S. Government departments and agencies
16 here today.

17 If you could introduce yourselves please,
18 let's start with SBA.

19 MS. BONNER: Sarah Bonner from the Office
20 of Manufacturing and Trade at the U.S. Small
21 Business Administration.

22 MR. STEPHENS: Andrew Stephens from USDA

1 Foreign Agricultural Service.

2 MS. HODGE: Hi, Susie Park Hodge,
3 associate general counsel at USTR.

4 MR. DOUGLAS: Antonio Douglas, trade
5 enforcement director, USTR.

6 MS. SABA: Salwa Saba, State Department,
7 Office of Bilateral Trade Affairs.

8 MS. YU: Good morning. Anne Yu, U.S.
9 Department of Health and Human Services in our
10 Office of Global Affairs.

11 MS. SCHAEFER: Sonja Schaefer, Department
12 of Labor.

13 CHAIR BUTLER: And my name is Philip
14 Butler, I'm from USTR, and I'm chair of the Section
15 301 Committee. Before we proceed with Panel 1, I
16 will provide some procedural and administrative
17 instructions. Please note that no cameras, video,
18 or audio recording will be allowed during the
19 hearing.

20 The hearing is scheduled to conclude
21 today, Tuesday, December 16th. A written
22 transcript of this hearing will be posted on the

1 USTR website as soon as possible after the
2 conclusion of this hearing. We have 3 panels of
3 witnesses with 12 individuals scheduled to testify.

4 We will have a brief break between panels,
5 and a one hour break for lunch. Each witness
6 appearing at the hearing is limited to five minutes
7 of oral testimony. The light before you will be
8 green when you start your testimony, yellow means
9 you have one minute left, and red means your time
10 has expired.

11 After the testimony from each panel
12 witness, the Section 301 Committee will have an
13 opportunity to ask questions. All questions will
14 be from the agency representatives, there will be
15 no questions accepted from the floor. Committee
16 representatives will generally direct their
17 questions to one or more specific witnesses.

18 Again, post hearing comments, including
19 any written responses to questions from the Section
20 301 Committee, are due December 23rd, 2025. The
21 rules and procedures for written submissions are
22 set out in the October 28th Federal Register notice.

1 To maintain the schedule we request that witnesses
2 when responding to questions be as concise as
3 possible.

4 We likewise ask witnesses to be
5 understanding if and when the chair asks that a
6 witness conclude a response. In this regard
7 witnesses should recall that they have a full
8 opportunity to provide more extensive responses in
9 their post hearing submissions. With that, we will
10 call up the first panel please. Mr. Crowell, the
11 floor is yours.

12 MR. CROWELL: Great, good morning
13 everyone. I'm Dr. Sam Crowell, and I'm here
14 providing comments on behalf of the American Seed
15 Trade Association, ASTA. ASTA is one of the oldest
16 trade associations in the U.S., we were founded in
17 the 1880s, and our members produce all types of
18 seeds, flowers, vegetables, row crops, anything
19 planted in the ground.

20 We have nearly 700 member companies,
21 researchers, and universities contributing to this
22 process, and our U.S. agricultural sector is one

1 of the most innovative in the world because of the
2 substantial investment that we provide in terms of
3 R&D spending, innovation, and the use of trade in
4 order to speed the commercialization process of
5 these products.

6 As part of this, agricultural
7 biotechnology is a really important set of tools
8 that allows U.S. farmers to have access to novel
9 traits and characteristics like pest resistance and
10 herbicide tolerance that are otherwise not possible
11 to introduce using breeding methods.

12 However, for these important ag biotech
13 products, U.S. seed developers have to secure
14 foreign regulatory approvals in major export
15 markets prior to commercializing those traits for
16 U.S. farmers due to the complex food and
17 environmental safety requirements that exist on the
18 international stage.

19 These costs are significant, a recent
20 study demonstrated that it takes an average of 16
21 and a half years and over 115 million dollars in
22 order to bring a single biotech crop to market, and

1 those barriers and delays are significant to
2 bringing innovation and tools to our U.S. farmers.

3 Among the crops that we commercialize, in
4 order to bring these traits to market, we have to
5 focus our commercial pipelines on those crops in
6 which we can secure -- recoup the investment that
7 it requires to bring those crops to market. These
8 are big crops like corn, soy, alfalfa, potato,
9 canola.

10 For U.S. seed companies, years of delays
11 and extensive costs associated with China's
12 approval process in particular have created
13 significant uncertainty for our ability to bring
14 these products to market. China currently
15 represents one of the single highest barriers to
16 entry for commercialization of these products.

17 And for many years it was not possible for
18 our companies to secure approval in the Chinese
19 export market without meetings at the highest level
20 of government between the U.S. president and the
21 Chinese president. The Phase One Agreement
22 represented an important step forward in addressing

1 this dynamic.

2 It includes specific actionable steps for
3 China to address barriers in its biotech approval
4 pipeline. And unfortunately it's our opinion, and
5 our member companies' opinion that China has not
6 lived up to these obligations, and has failed to
7 implement many of the most important provisions
8 within the agreement.

9 Notably, on average, the monthly approval
10 time line to bring a biotech product now exceeds
11 five and a half years, 69 months to secure an
12 approval within China's system. And two of the
13 products that are currently in the queue have been
14 under review for at least nine years.

15 This clearly exceeds China's requirement
16 to take a decision, and issue a decision in no more
17 than 24 months under the Phase One Agreement. There
18 are a lot of issues in the biotech approval process
19 within China, which I'll try to briefly summarize
20 now into three major buckets.

21 The first is that there are procedural
22 challenges facing applicants when they submit

1 products for approval. Import procedures are
2 unclear, they are lengthy, they are unpredictable.

3 The committee, the National Biosafety Committee
4 that's responsible for issuing approvals in China
5 does not publish meeting dates, agendas, or outcomes
6 with sufficient notice for U.S. companies to know
7 when their product will be evaluated.

8 Or how to respond to question in time for
9 the next meeting when that product may be evaluated.

10 Applicants also have no ability to interact with
11 the regulatory authorities to seek clarity when
12 questions they receive are unclear, or not science
13 based. The second big challenge is the lack of
14 science and risk based decision making in China's
15 system.

16 Applicants often receive duplicative
17 questions, they are required to conduct in country
18 studies within China that are not related to a
19 product's intended end use, and these mandatory in
20 country review processes are required even for
21 products that are required for food and feed, not
22 for cultivation in China.

1 So, it adds years of unnecessary
2 requirements to the approval process and time line.

3 The third big bucket of concerns relates to
4 structural challenges within China's approval
5 system, there is a high level of unpredictability
6 regarding these mandatory studies, they expose our
7 products to intellectual property concerns.

8 While China's officials actually evaluate
9 our products within China rather than accepting data
10 packages from U.S. applicants. Additionally,
11 China will not accept applications for products that
12 are being submitted into China unless they have
13 received approval in the United States prior to the
14 application process being submitted.

15 Which it creates this mandatory asynchrony
16 in our approval pipeline. So, I'm happy to pause
17 there, I see I'm already over time. I'm happy to
18 answer questions, I just would ask that USTR
19 continue to address these challenges facing U.S.
20 seed developers. Thank you very much.

21 CHAIR BUTLER: Thank you. Mr. Gackle,
22 the floor is yours.

1 MR. GACKLE: God morning, and thank you
2 for the opportunity to testify today on U.S. Trade
3 Representative Section 301 investigation into
4 China's implementation of commitments under the
5 Phase One Agreement. My name is Josh Gackle, and
6 I'm a farmer from North Dakota.

7 I have also had the privilege over the last
8 couple years of serving as president and chairman
9 of the American Soybean Association, which
10 advocates for domestic and international policies
11 supporting U.S. soybean farmers. ASA has submitted
12 full written comments to the USTR docket with our
13 sister organization, the U.S. Soybean Export
14 Council.

15 In my time today I would like to provide
16 a brief overview of the importance of the Chinese
17 export market to U.S. soybean farmers, issues
18 regarding China's compliance with the Phase One
19 Agreement, and concerns our industry and soybean
20 farmers have regarding the latest agreement, and
21 the impact this investigation could have on current
22 negotiations.

1 Soybeans are the largest ag export in the
2 U.S., and robust trade is a top priority for our
3 industry. Of the 46.3 million metric tons of soy
4 that U.S. exporters shipped in the marketing year
5 2023 and '24, nearly 25 million metric tons were
6 bound for China. That volume represents 54 percent
7 of U.S. soybean export, and accounts for about 13
8 billion dollars in total value.

9 China's demand for soybeans is greater
10 than the rest of the export markets combined,
11 despite the industry's continued efforts to
12 diversify. There is simply no singular alternative
13 that offsets the Chinese market. When the 2018
14 Section 301 investigation into China initiated the
15 first trade war, U.S. soybean exports were one of
16 the first casualties.

17 USDA analyzed the impact of retaliatory
18 tariffs on U.S. agriculture, and the data shows a
19 76 percent reduction in value for our soybean
20 exports to China from 2017 to 2018. USDA economists
21 also estimated the trade war cost U.S. agriculture
22 in general over 27 billion dollars.

1 U.S. soybeans accounted for 71 percent of
2 those losses. ASA was grateful for the resolution
3 brought on by the Phase One Agreement. The Agreement
4 was critical in providing relief from damaging,
5 retaliatory tariffs, as it provided an exclusion
6 mechanism for Chinese importers.

7 Customers in China were able to apply to
8 their government to reduce the overall tariff rate
9 on U.S. soybeans by removing the 25 percent
10 retaliatory duty. In addition to the tariff waiver
11 mechanism in the agreement, the agriculture chapter
12 outlines other commitments, most notably Annex 16
13 of the requirement requires China to reform its
14 agricultural biotechnology approval process.

15 Which has been a major barrier to bringing
16 new soybean traits to market for U.S. producers.

17 This was a welcome development, as China has
18 maintained an approval process for biotech that does
19 not align with the U.S. process, and there has often
20 been a backlog of unapproved traits.

21 For developers, the process is burdensome,
22 taking an average of six years for approval. This

1 has impacted the ability of seed companies to bring
2 the latest technologies to market for U.S. farmers
3 due to the potential for disrupted trade in China.

4 The Phase One Agreement included broad
5 commitments by China to purchase an additional 200
6 billion dollars worth of U.S. goods over two years,
7 including agricultural products. In these two
8 years of commitments, China imported 62 million
9 metric tons of U.S. ag products, or about 77 percent
10 of the agreed upon level.

11 While China fell short in these
12 commitments, the agreement was contingent on market
13 prices. China is a price motivated customer, and
14 prioritizes U.S. soy when our soybeans are priced
15 competitive against South America. The Phase One
16 purchase targets could realistically only be
17 achieved by China purchasing significantly larger
18 amounts of U.S. soy, which could only occur by
19 changing its market driven behavior.

20 China would have either had to buy U.S.
21 soybeans during the periods when the price was
22 higher than Brazilian beans to meet the targeted

1 amounts, or purchase large quantities of U.S. soy
2 during discount periods, which again would result
3 in price increases.

4 Regardless of which scenario occurred,
5 China would have had to fundamentally shift from
6 their market based behavior. Despite the
7 shortcomings of Chinese compliance with the
8 agreement, ASA has strong reservations about
9 initiating a new Section 301 investigation, and
10 potential impacts on the current negotiations.

11 While China has made a renewed commitment
12 to purchase U.S. soybeans following a meeting in
13 South Korea this fall, we have yet to see a signed
14 agreement or actionable follow through that would
15 indicate China will meet these new commitments.

16 Furthermore, the agreed upon 12 million metric tons
17 this year, and 25 million metric tons for the next
18 three years represents levels that are below the
19 status quo, which is concerning to U.S. soybean
20 farmers.

21 There also remains confusion about the
22 time line for China to meet its initial 12 million

1 metric ton purchase for 2025. With the White House
2 fact sheet stating that the first round of purchases
3 would occur in the final two months of 2025.

4 However, recent comments by
5 administration officials suggest that deadline is
6 not the true deadline, creating uncertainty in the
7 industry, and adding to the anxiety of U.S. soybean
8 farmers. It is the recommendation of ASA that the
9 U.S. Trade Representative's Office and the
10 administration use ongoing negotiations with the
11 Chinese as a mechanism to hold China accountable
12 for commitments made during the Phase One Agreement.

13 And to look to a future Phase Two Agreement
14 that is enforceable, and provides meaningful,
15 continued, and certain market access. We look
16 forward to continuing to work with USTR on these
17 trade issues, and I thank you for your time today.

18 CHAIR BUTLER: Thank you, Mr. Gackle.
19 Mr. Cooper, the floor is yours.

20 MR. COOPER: Well thank you, Mr. Chairman,
21 and good morning. My name is Geoff Cooper, and I
22 am the president and CEO of the Renewable Fuels

1 Association, the leading trade association for U.S.
2 ethanol producers. I appreciate the opportunity
3 today to voice our support for the Section 301
4 investigation into China's failure to honor its
5 commitments under the Phase One Agreement.

6 RFA believes a thorough investigation into
7 China's prejudicial actions is justified and
8 necessary, and we commend the U.S. Trade
9 Representative, and the entire Trump administration
10 for bringing much needed scrutiny to this important
11 issue.

12 China's failure to fully implement the
13 Phase One Agreement has resulted in lost market
14 opportunities and significant financial losses for
15 U.S. ethanol producers, and the farmers who supply
16 grain to our member companies. On December 13th,
17 2019, following months of negotiations, the U.S.
18 and China reached the historic and enforceable Phase
19 One Agreement.

20 Under the Agreement China committed to
21 make structural changes to correct distortive acts,
22 policies, and practices in the areas of intellectual

1 property, technology transfer, agriculture, and
2 financial services. The Agreement also committed
3 China to make substantial additional purchase of
4 U.S. goods, including agriculture and energy
5 products.

6 Specific to agriculture, China agreed to
7 purchase an additional 32 billion dollars in U.S.
8 ag products in 2020 and 2021 over the amount
9 purchased in the baseline year of 2017. China also
10 agreed to make changes to distortive policies such
11 as tariffs that were blocking U.S. agricultural
12 products from accessing the Chinese market.

13 Ethanol and distiller's dried grains,
14 which is the animal feed co-product that our member
15 companies produce alongside of ethanol, both were
16 specifically mentioned, included in Annex 6.1 of
17 the agreement as ag products that would count
18 towards China's purchase commitment.

19 Based on the inclusion of ethanol and
20 distiller's grains in that agreement, U.S. ethanol
21 producers, farmers, and other supply chain
22 participants made investments to expand production

1 capacity and modernize transportation networks.

2 It was our industry's expectation based
3 upon the agreement that China would not only
4 increase purchases of ethanol and distiller's
5 grains in 2020 and 2021, but also that China would
6 remove distortive trade practice, trade barriers,
7 and provide stable and sustained access to the
8 Chinese market over the long term.

9 Unfortunately that did not happen. China
10 reneged on its commitment to meaningful increase
11 purchases of ethanol and distiller's grains in 2020
12 and 2021, and entirely failed to address the
13 structural barriers that hindered our industry's
14 long term access to that market.

15 Instead, China erected new barriers that
16 were even more punitive to U.S. ethanol and
17 distiller's grains, completely shutting American
18 made ethanol out of that market over the past four
19 years. China was once the top export market for
20 U.S. distiller's grains. They took in 6 million
21 metric tons in 2015, and they were one of the largest
22 export markets for ethanol.

1 In 2016 China imported 198 million gallons
2 of U.S. ethanol valued at 313 million dollars,
3 making China the third largest destination for
4 American ethanol that year, and representing nearly
5 20 percent of our total exports. The following year
6 in 2017 China raised its tariff rate on U.S. fuel
7 ethanol from 5 percent to 30 percent, and export
8 volumes dropped more than 70 percent to just 55
9 million gallons.

10 Then upon finalization of the Phase One
11 Agreement China imported just 84 million gallons
12 of ethanol, valued at 130 million dollars in 2020
13 and 2021 combined. That is roughly one third of
14 what the country imported in 2016 and '17, and far
15 below the industry's expectations based upon the
16 agreement.

17 Making matters even worse, China raised
18 its tariff on U.S. denatured fuel ethanol imports
19 to 70 percent, which is 14 times higher than the
20 tariff rate that was enforced in 2016. And that
21 has effectively shut out American made ethanol out
22 of that market. Since May of 2021 U.S. ethanol

1 exports to China have been zero.

2 So, what was once a 200 million gallon per
3 year market, and growing, and showing promise, has
4 now become a shuttered market with no prospects for
5 future opportunity, all because China has abandoned
6 its commitments under the Phase One Agreement. So,
7 in closing we are confident that the Section 301
8 investigation will provide indisputable evidence
9 that China's unfair policies have severely injured
10 U.S. ethanol producers and farmers.

11 Thus we strongly support USTR taking
12 action to ensure U.S. producers are protected
13 against the effects of China's failed trade
14 policies. Thank you again for the opportunity to
15 testify today, and I look forward to your questions.

16 CHAIR BUTLER: Thank you. We will turn
17 to questions. I would ask the panelists to please
18 say your names and your agency each time you speak
19 for the court reporter, to make things easier.
20 We're going to start out with SBA.

21 MS. BONNER: Thank you, Sarah Bonner from
22 SBA. Mr. Crowell, thank you for your comments.

1 Are you aware of specific cases where China's
2 biotechnology approval system has been used to force
3 technology transfer or steal intellectual property?

4 And if so, how prevalent do you think they are,
5 and what would you estimate the burden on your
6 industry? Thank you.

7 MR. CROWELL: Thank you for your question.

8 It's difficult to comment on what is going on within
9 China as a domestic market, but what I can comment
10 on is the barriers, and delays, and the
11 vulnerabilities that the product approval pipeline
12 impose on U.S. applicants.

13 So, in order to receive approval in the
14 Chinese system, I can't as a seed company simply
15 provide a data package like I would in any other
16 regulatory market in the world. I actually have
17 to provide physical seeds to a laboratory that is
18 run by the Ministry of Agriculture, MARA, and they
19 conduct assessments of those varieties in country
20 within China.

21 Those assessments include things like
22 molecular characterization, and characterization

1 of agronomic performance of those crops. Even
2 though the products exported from the United States
3 are not intended for cultivation in China, they are
4 intended for use as food, feed, or further
5 processing.

6 So, the types of questions, and the types
7 of assessments that are required as part of the
8 regulatory approval process in China from the
9 outside appear to be unrelated to the intended end
10 use of the product. And it also raises significant
11 questions from a U.S. applicant perspective about
12 how that data might be used in other contexts.

13 MR. STEPHENS: Andrew Stephens with USDA.
14 Mr. Crowell, I appreciate that many of your members
15 are small businesses, do they face unique challenges
16 with respect to China's non-compliance with Phase
17 One?

18 MR. CROWELL: Thank you for your question.
19 Yes, I would say that small businesses do in fact
20 face challenges associated with China's biotech
21 approval system, and the dynamic that we're
22 navigating globally for biotech approvals. I

1 mentioned that it takes over 16 years and 115 million
2 dollars to bring a biotech crop to market.

3 A startup company, a small university
4 researcher, a small company cannot afford that cost
5 of compliance to secure regulatory approvals in
6 every major export market prior to
7 commercialization. And the fact is that the
8 reality of the legal system in the United States,
9 and of co-mingled supply chains requires those
10 pre-market approvals before we can bring those
11 traits to market.

12 The delays in China's approval system are
13 among the highest in the world, which is why we are
14 most concerned, and speaking here today. It
15 shouldn't take over five and a half to six years,
16 in some cases nine or ten years to receive an
17 approval for a product that's received a food and
18 feed authorization in the United States and many
19 other markets in less than three or two years in
20 most cases.

21 So, I think you can imagine why that extra
22 amount of time creates persistent delays. Just to

1 give you a specific example, I will note that in
2 the time since the phase one agreement went into
3 effect, that the Chinese domestic market has issued
4 more than 100 new cultivation approvals for biotech
5 crops that are cultivated in China.

6 Yet crops that are exported as food, feed,
7 and further processing from the U.S. continue to
8 face these persistent delays. So, there appears
9 to be a disparity in the way in which products are
10 being treated when you're applying from the outside.

11 MR. DOUGLAS: Antonio Douglas, USTR.
12 This question is for Mr. Gackle. In your testimony
13 you note that China's agriculture biotechnology
14 approval process has been a major barrier to
15 bringing soybean traits to market for U.S.
16 producers. Could you talk more about how China's
17 non-implementation of commitments to reform this
18 process denies benefits to the United States, and
19 the burden of your members resulting from it?

20 MR. GACKLE: Yes. Thank you for the
21 question, and Mr. Crowell summarized it better, and
22 is much more of an expert when it comes to his members

1 and companies, but I will speak from a producer's
2 perspective, and members of the American Soybean
3 Association. Our association works very closely
4 with EPA, and with the companies that are seeking
5 to get approval from the EPA for traits that they're
6 developing here.

7 The time and money that they put into that
8 process is already lengthy enough from my
9 perspective as a farmer. And in this time right
10 now, the farm economy being what it is, margins are
11 really tight in farm country, input prices are
12 higher, the delays from China, and other countries,
13 and anything that extends that process and costs
14 the companies more money ultimately filters down
15 to the farmer as well.

16 So, members of the American Soybean
17 Association, farmers that we represent across the
18 country are already facing these increased input
19 costs, reform to that system in China, anything we
20 can do to speed up that process and gain some
21 certainty would help our members, would help our
22 farmers.

1 MS. SABA: Salwa Saba, U.S. Department of
2 State. Mr. Gackle, you suggest using ongoing
3 negotiations to hold China accountable for its Phase
4 One commitments. Beyond negotiations, what action
5 would you recommend be taken to address China's
6 non-implementation of its agricultural and
7 biotechnology related commitments under Phase One
8 Agreement? Thank you.

9 MR. GACKLE: Thank you for the question.

10 From my perspective again, coming from American
11 Soybean Association, and coming from farm country,
12 and talking to producers, we just had our ASA board
13 meeting last week, so we were together with our
14 entire board of directors, a number of industry
15 partners, and others.

16 And I would say that trade with China has
17 been and continues to be one of the top priorities
18 for our association, for our membership, and for
19 our farmers. So, it's a combination I believe of
20 securing the commitments under Phase One, working
21 towards a Phase Two.

22 And then outside of the Section 301

1 investigation, and outside of the missed gap there
2 with the initial Phase One commitments, and China's
3 follow through, there is this new opportunity now
4 with what was announced recently between the U.S.
5 and China about the 12 million metric tons for 2025,
6 and the 25 million metric tons for the three years
7 following that.

8 Again, that was a helpful step, something
9 that we look to as positive, certainly as growers,
10 as producers, getting back some of that market from
11 China, which I've mentioned in both written and
12 verbal comments is our by far number one export
13 market.

14 As much as we try to -- and we do, we are
15 successful in finding new markets, we work on new
16 markets all the time with our sister organization,
17 U.S. Soybean Export Council. But you really can't
18 replace that China market overnight or in a short
19 amount of time.

20 So, again, follow through on Phase One,
21 finding out what might have happened there, it
22 didn't quite make that level, and then again follow

1 through on the recent announcement that came out
2 of South Korea this fall.

3 MS. YU: Hello, I'm Anne Yu with HHS, this
4 question is for Mr. Cooper. In your testimony you
5 discuss China's failure to meet purchase
6 commitments regarding ethanol and distillers.
7 Could you elaborate on the burden on your members
8 resulting from China's failure to meet those
9 commitments? Thank you.

10 MR. COOPER: Yeah, thank you for the
11 question. Certainly we have seen the negative
12 impacts that have trickled through the U.S. ethanol
13 industry as a result of China's failure to honor
14 those purchase commitments. As I stated in my
15 testimony, we exported more than 300 million dollars
16 worth of ethanol to China in 2016, right around 200
17 million gallons.

18 We sent at one point 6 million tons of
19 distiller's grains valued at somewhere north of 1
20 billion dollars to that market place as well. We've
21 lost those opportunities as a result of China's
22 failure to honor its commitments. And that has real

1 impacts on the U.S. ethanol industry, and the
2 farmers that support us.

3 I mean it's lost demand for corn, it puts
4 downward pressure on prices for both ethanol and
5 distiller's grains, as well as downward pressure
6 on the price of corn. When you just think about
7 losing 200 million gallons of demand, that's
8 essentially the annual output of three average sized
9 ethanol plants.

10 So, you're essentially wiping away demand
11 for three ethanol facilities that support hundreds
12 if not thousands of jobs in rural communities, and
13 purchase millions of bushels of corn from local
14 farmers. So, we've certainly felt the impacts in
15 the industry.

16 As I mentioned, we also made investments
17 to prepare for expanded demand in the Chinese
18 market. And that certainly didn't materialize, and
19 those investments have been lost as a result.

20 MS. SCHAEFER: Sonja Schaefer from
21 Department of Labor, I have another question for
22 Geoff Cooper. You suggest holding China

1 accountable for its non-implementation by imposing
2 tariffs on Chinese agricultural products equal to
3 the amount of the commitment. Aside from tariffs
4 are there other actions you would recommend be taken
5 to address China's non-implementation?

6 MR. COOPER: Well, I think first and
7 foremost we would prefer to see these barriers
8 resolved through further negotiations. We're well
9 aware of the current negotiations that are ongoing,
10 and if China were to remove its existing tariffs
11 on U.S. ethanol, and its duties on distiller's
12 grains, we think there would probably be no need
13 for reciprocal action.

14 However, if they fail to do that, we I think
15 would strongly advise considering reciprocal action
16 on products we are importing into the U.S. from
17 China. Obviously we don't import a lot of ag
18 products from China, we don't import ethanol, or
19 distiller's grains, or corn.

20 But we do import used cooking oil, which
21 is used as a feed stock for renewable diesel, and
22 biodiesel. That may be a product that could be

1 targeted for some reciprocal action if China fails
2 to honor its commitments. Ethanol is also an energy
3 commodity in addition to being an ag commodity, it's
4 a motor fuel.

5 We do import, as I'm sure you know, a
6 significant amount of lithium from China, that may
7 be another product that could be targeted in a
8 reciprocal fashion because of its use as essentially
9 a motor fuel for electric vehicles here in the U.S.,
10 and there may be some analogous features there.

11 So, in addition to reciprocal tariffs, we
12 do have some other ideas, and would be happy to
13 submit those in writing. But we think -- I guess
14 we would encourage the administration to do whatever
15 it takes to get China to the table, to remove its
16 tariffs, and honor its commitments.

17 CHAIR BUTLER: Seeing no additional
18 questions from our colleagues, we can release this
19 panel. Thank you very much for your testimony
20 today. Why don't we take a quick break, and come
21 back at 10:45 by that clock, so in about seven or
22 eight minutes for the second panel. Thank you.

1 (Whereupon, the above-entitled matter
2 went off the record at 10:37 a.m. and resumed at
3 10:51 a.m.)

4 CHAIR BUTLER: Okay, we'll start with
5 Panel 2. Mr. Ezell, when you are ready the floor
6 is yours.

7 MR. BURCH: Are there any new panel
8 members?

9 CHAIR BUTLER: Sorry, we'll do that first.
10 Okay, sorry, before we start with Mr. Ezell, can
11 we have introductions on our newest panel members
12 please? Start with Department of Commerce.

13 MR. MILES: Hi, this is Ben Miles with U.S.
14 Department of Commerce, Office of Standards and
15 Intellectual Property.

16 MS. WHITEHURST: This is Amy Whitehurst
17 with the Department of Treasury.

18 MS. MADELL: Mary Lisa Madell, Department
19 of Transportation.

20 MS. ZHAO: Shelly Zhao, USTR.

21 CHAIR BUTLER: Okay, thank you. Mr.
22 Ezell, the floor is yours.

1 MR. EZELL: Well good morning, I'm Stephen
2 Ezell, the vice president for global innovation
3 policy at the Information Technology and Innovation
4 Foundation, ITIF, we're a Washington, D.C. based
5 science and technology policy think tank. And
6 thank you for the opportunity to testify this
7 morning on the implementation of the China U.S.
8 Phase One Agreement.

9 ITIF contends that China remains an
10 unreliable trade partner. As potential
11 commitments to reverse its predatory power trade
12 practices are antithetical to its long term techno
13 economic project. China continues to pursue
14 innovation mercantilist-based economic and trade
15 policies such as massive industrial subsidization.

16 Intellectual property theft, coerced
17 transfer of intellectual property or technology,
18 or mandated local production as a condition of
19 market access, and manipulation of standards and
20 currency. China's economic and trade policies
21 remain fundamentally and intentionally inconstant
22 with the foundational World Trade Organization

1 principles of private sector led, market based,
2 rules governed trade predicated on a basis of
3 national treatment, non-discrimination, and
4 reciprocity.

5 Moreover, China has manifestly failed to
6 meet its commitments under the U.S. China Phase One
7 Agreement. First, China failed to meet its
8 purchasing commitments. China agreed to purchase
9 at least 200 billion dollars worth of U.S. goods
10 above a 2017 set base line across 2020 and 2021,
11 but only procured a fraction of that amount.

12 Their purchasing commitments implied that
13 China should have purchased 32 billion dollars more
14 in agricultural products, 52 billion dollars more
15 in energy, and 77.7 billion more in manufactured
16 goods, as well as 37.9 billion more in services.

17 In fact by the end of 2021, China had met only 50
18 percent of its overall purchase agreements,
19 including just 37 percent of energy purchases.

20 Second, China has failed to meet its
21 intellectual property commitments. Despite formal
22 commitments to curb IP theft, strengthen trade

1 secret protections, and improve enforcement,
2 Chinese entities continue to engage in systematic
3 economic espionage against U.S. companies,
4 especially in advanced technology industries such
5 as aerospace, automotive, biotechnology,
6 semiconductors, and displays.

7 ITIF recently documented the continuing
8 extent of China's state directed IP theft and cyber
9 espionage practices in its new report From Outsider
10 Assaults To Insider Threats: Chinese Economic
11 Espionage. Transparency and due process for IP
12 protection remain weak.

13 Chinese courts and agencies do not publish
14 a complete record of relevant cases which would
15 provide independent verification of how foreign
16 firms are treated, or whether China is meeting its
17 obligations. Chinese courts also issue global
18 anti-suit injunctions, ASIs, which target foreign
19 companies to block litigation elsewhere, and set
20 global licensing terms.

21 These ASIs are often issued without notice
22 of publication, and cannot be effectively

1 challenged, reinforcing concerns about bias and
2 lack of accountability. China has also failed to
3 implement tougher enforcement against
4 counterfeiting and online infringement that it
5 promised.

6 A new ITIF report on counterfeits on
7 Chinese e-commerce platforms confirmed the
8 continuing presence of repeat offenders and
9 products with health and safety risk. In addition,
10 several judicial cases signal that trade secret
11 theft remains pervasive.

12 This is demonstrated by recent cases
13 involving Tesla's semiconductor related IP, EV
14 battery trade secrets that were stolen by Chinese
15 entities, and repeated theft of OLED, organic light
16 emitting diode display technologies from Korean and
17 U.S. firms. Third, China did not change its basic
18 approach to foreign investment and technology
19 transfer.

20 Forced or coerced technology transfer
21 remains widespread in its industries, USTR's own
22 four year review found that Chinese authorities

1 still pressure foreign companies to form joint
2 ventures, localize operations, and share sensitive
3 knowhow as a requirement for approval or market
4 entry in China.

5 These practices extend to digital
6 infrastructure. Our think tank has documented how
7 cloud computing operations in China still must be
8 locally controlled, forcing providers such as
9 Amazon Web Services or Microsoft to operate through
10 Chinese partners, sell under the partner's brand,
11 and share technology.

12 By contrast, Chinese cloud providers such
13 as Aliyun can establish data centers in the United
14 States without the same requirements.

15 Underscoring the asymmetry and the failure of Phase
16 One commitments to secure reciprocal treatment for
17 foreign investors operating in China.

18 Finally, regarding China's currency
19 commitments, the U.S. Department of Treasury has
20 consistently reported that quote China provides
21 very limited transparency regarding key features
22 of its exchange rate mechanism, including the policy

1 objectives of its exchange rate management regime,
2 and its activities in the offshore renminbi market.

3 In summary China has failed to meet its
4 Phase One Commitments. The Trump administration
5 should insist that China come into full and complete
6 compliance immediately, and do so before the United
7 States prefers any further comprehensive trade
8 negotiations or deals with China. Thank you, look
9 forward to your question.

10 CHAIR BUTLER: Thank you. Mr. Brzytwa?

11 MR. BRZYTWA: Thank you for the
12 opportunity to testify this morning. I'm Ed
13 Brzytwa, vice president of international trade at
14 the Consumer Technology Association. CTA
15 represents the 537 billion dollar U.S. consumer
16 technology industry, supporting more than 18
17 million American jobs.

18 Our membership includes over 1200 U.S.
19 companies, the vast majority small businesses and
20 startups. We also own and produce CES, the world's
21 most powerful technology event, taking place in
22 January next year in Las Vegas. CTA and USTR are

1 aligned, the U.S. must challenge China's unfair,
2 coercive, and market distorting practices.

3 We must keep American businesses globally
4 competitive. Where we differ is on the appropriate
5 policies to change China's behavior, while
6 engendering stability in supply chains. Today I
7 want to emphasize three points. First, China has
8 not implemented important elements of the Phase One
9 deal.

10 That is a serious ongoing problem for U.S.
11 technology firms. Tech companies operating in
12 China face opaque licensing, and regulatory
13 processes, and pressure to disclose sensitive
14 technology. Discriminatory procurement and
15 indigenization programs steer major buyers toward
16 domestic only products, and exclude U.S. suppliers.

17 China's cyber and data rules have only
18 gotten more restrictive. China's export controls
19 and inconsistent licensing on critical inputs makes
20 supply chains volatile and uncertain. The Phase
21 One deal promised American companies fair treatment
22 and market access, they aren't getting either.

1 Second, broad tariffs on consumer
2 technology products have not changed China's
3 approach. After seven years of Section 301
4 tariffs, and additional tariffs under IEEPA, and
5 Section 232, China is still a bad actor. Beijing
6 uses forced technology transfer, unfair market
7 access rules, and restrictive data measures.

8 In many areas China has doubled down. The
9 tariffs have not delivered meaningful compliance
10 or reform. At the same time tariffs have hurt
11 American businesses and consumers. Tariffs raise
12 costs for Americans on imported goods, and
13 indirectly domestic substitutes. American
14 businesses face higher sourcing and production
15 costs.

16 Small businesses and startups have fewer
17 resources for research and development, hiring,
18 investments, and new innovation. Broad tariffs
19 deprive companies of the capital and resources to
20 diversify. In short, these tariffs weaken U.S.
21 competitiveness. Third, we need a coordinated
22 strategy with allies, focused on changing China's

1 behavior.

2 China's practices are a shared challenge
3 across advanced and emerging economies. When the
4 U.S. works with likeminded partners, we present a
5 united front. That increase leverage, makes
6 retaliation harder, and prevents Beijing from
7 rewriting rules one market at a time. Coordinated
8 engagement with trusted suppliers builds stable
9 networks outside China.

10 CTA urges USTR to take the following
11 approach. First, refrain from imposing any tariffs
12 on list 4B products, and other currently untariffed
13 no list items. Phase One indefinitely suspended
14 list 4B tariffs on price sensitive products that
15 Americans use daily. New duties raise costs
16 without good evidence they change China's behavior.

17 Second, remove Section 301 tariffs on
18 consumer technology products and inputs under lists
19 1, 2, 3, and especially 4A, particularly where
20 meaningful domestic production does not exist, or
21 supply is insufficient. Using consumer technology
22 as leverage has not worked. Continuing to tax these

1 goods only increases prices, and undercuts U.S.
2 innovation.

3 Third, pair tariff relief with sustained
4 allied engagement aimed at securing tangible
5 Chinese compliance, and preventing new barriers.

6 Relaxing tariffs on imports from U.S. allies and
7 aligned trading partners will steel their resolve
8 and commitment to work with the United States.

9 We should be tough on China's unfair
10 practices, and smart about the tools we choose.
11 Broad consumer technology tariffs that fail to
12 deliver reforms but inflict economic pain on
13 American businesses and consumers are not the right
14 approach. CTA stands ready to work with USTR and
15 the interagency community to reform China's
16 behavior, and advance U.S. technology leadership.

17 Thank you.

18 CHAIR BUTLER: Thank you. Mr. Owens?

19 MR. OWENS: Good morning. My name is John
20 Owens, I'm CFO of Unaka Company, parent of MECO
21 Corporation in Greenville, Tennessee. MECO has
22 been an American manufacturer for 66 years,

1 producing charcoal grills, electric grills, fire
2 pits, and folding furniture. We are located in a
3 rural Appalachian community where manufacturing
4 jobs are essential to local stability and long term
5 economic health.

6 At one time MECO employed nearly 900
7 employee producing folding furniture and grills.
8 Despite winning an anti-dumping case on our
9 furniture products, we still could not compete with
10 unfair Chinese trade practices. We eventually had
11 to stop producing all our furniture products, and
12 lay off 75 percent of our workers in 2004.

13 We currently employ 165 associates
14 operating at less than 25 percent capacity. We one
15 of the last remaining vertically integrated grill
16 manufacturers in the country. MECO is being
17 severely harmed because the Section 301 tariffs were
18 not applied consistently, and tariff inversion has
19 undermined our U.S. manufacturing capabilities.

20 In 2018 the U.S. imposed a 25 percent
21 tariff on gas and electric grills from China. But
22 the category we manufacture, charcoal grills, was

1 left off the list entirely. Meanwhile, the few
2 components that we must import to support U.S.
3 production were tariffed at 25 percent. A fully
4 assembled Chinese charcoal grill currently enters
5 the U.S. with 0 percent Section 301 duty.

6 But the few components that MECO needs to
7 make a U.S. made grill are 25 percent more expensive
8 coming out of China because of this tariff. This
9 tariff inversion directly penalizes American
10 manufacturing. China's subsidies and theft have
11 deeply damaged our business.

12 Its steel and manufacturing sectors
13 benefit from state subsidies, below market
14 financing, tax rebates, and currency manipulation
15 that keep input prices artificially low. Even with
16 existing tariffs, Chinese competitors maintain a
17 structural cost advantage that U.S. manufacturers
18 simply cannot match.

19 We have experienced extensive
20 intellectual property theft. Chinese factories
21 have produced near identical copies of our
22 Walk-A-Bout Grill. Retailers have replaced our

1 American made grill with these copies, even adopting
2 similar names to imply originality. Some Chinese
3 competitors use MECO's own photography and
4 promotional materials on Alibaba.

5 And they have even displayed our grills
6 in their showrooms. This flagrant theft of
7 intellectual property enables China to profit
8 without incurring the cost of development and the
9 risk of innovation. Today almost 99 percent of all
10 charcoal grills imported in the U.S. come from
11 China.

12 And charcoal grill imports from China have
13 increased 81 percent since 2018, when the 301
14 tariffs were first implemented. MECO has spent
15 eight years formally raising this issue, testifying
16 before federal agencies, submitting comments, and
17 meeting with Congress, the USTR, the Department of
18 Commerce, and the Office of Trade.

19 Yet no agency has been able to explain
20 why charcoal grills were excluded from the 301
21 tariffs while comparable products were included.
22 We have been told they simply quote fell through

1 the cracks. But after 66 years of American
2 manufacturing, MECO and its employees cannot afford
3 to fall through the cracks anymore.

4 For MECO to survive and grow, we are not
5 asking for special treatment, we are asking for
6 consistency and a level playing field. We
7 respectfully request the addition of charcoal
8 grills to the Section 301 tariff list at 50 percent,
9 a 301 tariff increase on fire pits to a total of
10 50 percent, and the creation of an exclusion process
11 for U.S. manufacturers with 80 percent domestic
12 content.

13 We also urge the establishment of
14 incentives that support capital investment, and
15 make reshoring critical components possible for
16 domestic manufacturers. MECO has the equipment,
17 the work force, and the infrastructure to
18 significantly expand production in Tennessee.
19 With a rational tariff structure in place, we can
20 drive meaningful job growth in our Appalachian
21 community, while strengthening domestic
22 manufacturing capacity.

1 Without such support, we face the real
2 possibility of future layoffs, and potentially the
3 loss of the last major U.S. producer of charcoal
4 grills. Economist Bill Fox, University of
5 Tennessee professor emeritus, and special advisor
6 to the chancellor recently underscored the stakes.

7 Stating quote there is no question that
8 if a rural place loses a manufacturing plant, I mean
9 even 100 employees, that is a huge impact on the
10 local economy, and frankly there are often not easy
11 replacement. The residents of Greene County in the
12 Appalachian northeast region of Tennessee cannot
13 withstand additional loss.

14 In conclusion, MECO is not asking for
15 protection from competition. We are asking for
16 protection from state sponsored distortion,
17 intellectual property theft, and a tariff structure
18 that unintentionally punishes -- and relief from
19 a tariff structure that unintentionally punishes
20 U.S. producers.

21 Adding Charcoal grills to the 301 tariff
22 list is essential, it is fair, it is overdue, and

1 for MECO it is a matter of survival. Thank you for
2 your time and consideration, I look forward to your
3 questions.

4 CHAIR BUTLER: Thank you. We'll start
5 with question, first question is from USTR.

6 MS. ZHAO: Mr. Ezell, before the Phase One
7 Agreement, would you consider that China's
8 protection and enforcement for intellectual
9 property in the areas that you highlighted in your
10 submission, that is trade secrets, patents,
11 enforcement against counterfeit goods, et cetera,
12 have generally remained the same, improved, or
13 worsened? Please provide examples if possible.

14 MR. EZELL: Despite China's promises to
15 curb its IP theft activities going back to the Obama
16 administration, there has really been no
17 substantive change in the overall direction of
18 China's state sponsored, state directed activities
19 to acquire intellectual property from U.S.
20 companies and foreign competitors.

21 It's important to understand that China
22 subscribes to an all of the above technology

1 acquisition strategy. First China will try and get
2 intellectual properties from companies voluntarily
3 by trading tech for market, by getting companies
4 to divulge their IP as a condition of selling in
5 China.

6 But if they can't get it that way, then
7 they'll turn to other surreptitious mechanisms like
8 IP theft or cyber espionage. They'll deploy other
9 channels such as trying to attract workers from tech
10 companies to relocate to China through the Thousand
11 Talents problem, or even acquiring U.S. or foreign
12 companies.

13 So, absolutely no change in the level of
14 IP theft despite their promises. In February of
15 2020 William Evanina, director of the National
16 Counterintelligence and Security Center singled out
17 two fields where China has put priority on
18 technology theft recently, that's EV and aircraft.

19 Christopher Wray in 2020 said that China
20 is fighting a generational fight to surpass our
21 country in economic and technological leadership,
22 and IP theft is at the center of that. So, no, no

1 modification in their practices. If anything,
2 studies like out of Europe show that IP theft has
3 only increased from Chinese actors.

4 MS. ZHAO: Thank you. Do you have any
5 further thoughts on some of the other areas of
6 intellectual property such as patent, counterfeit
7 goods, et cetera that you mention in your
8 submission?

9 MR. EZELL: Yeah, this is a growing threat
10 vector as well, particularly with the counterfeit
11 goods. One of the things we should be doing there
12 is putting China's e-commerce platforms like Temu
13 and Shein on the notorious markets list. 93 percent
14 of counterfeit goods coming into the United States
15 by their value according to CBP have come from China
16 over the past decade.

17 That was in the most recent specialty
18 report, so in flows of counterfeit products continue
19 unabated, and we need to look at adding more of
20 China's companies to our notorious markets list.

21 MS. ZHAO: Thank you.

22 MS. MADELL: Thank you. Mr. Ezell, in

1 your testimony you state that China has failed to
2 live up to the commitments it made not to force or
3 pressure foreign firms to transfer technology, and
4 to keep any tech deals voluntary, and market based.

5 Could you provide some concrete examples of Chinese
6 continuing requirements to transfer technology?

7 Thanks.

8 MR. EZELL: So, as I point out in my
9 testimony, a very good example of this on a
10 continuing basis comes from the testimony submitted
11 to the U.S. China Economic Security Commission in
12 2022, it's clear that AWS and Microsoft must
13 continue to operate through Chinese partners, cell
14 services under the Chinese partner brand, and share
15 technology and operational knowhow as part of those
16 agreements.

17 So, in the cloud computing space that's
18 a clear and present area where we're still having
19 to transfer our technology. In the automotive
20 sector, it's important to understand how China is
21 continuing to engage there, one important aspect
22 to note is that for many years U.S. companies have

1 been required to locate joint venture or R&D centers
2 in China as a condition of being able to sell cars
3 inside China.

4 And so that, in the automotive sector,
5 that's another area where we see continued tech
6 transfer. But the process of China continuing to
7 exchange tech for market remains absolutely endemic
8 to their strategy of innovation led mercantilist
9 economic growth. And I'd be happy to further expand
10 on these examples in my post hearing testimony if
11 you would like.

12 MS. WHITEHURST: Mr. Brzytwa, your
13 testimony states that U.S. technology firms face
14 opaque licensing and regulatory processes. You
15 also note that technology firms face pressure to
16 disclose technology and other ongoing problems.
17 Could you expand on these concerns you've mentioned,
18 and how they are impacting your members?

19 MR. BRZYTWA: So, the China market is
20 vast, it's complicated, it's necessary, it's so
21 large that if you're not there as a company,
22 especially in the technology space, then you're

1 really losing out from a competitive standpoint.

2 And so I think our companies face two types of
3 pressures.

4 Number one is they face the pressure to
5 be in the China market for the China market, and
6 number two, they face pressure to produce in the
7 China market, to export to the United States and
8 the rest of the world, because one of the best
9 manufacturing ecosystems still today is in China.

10 And when it comes to operating in the China
11 market, they do face the requirements that are
12 opaque, they're burdensome, and it's not just at
13 the federal level so to speak, at the central
14 government level, it's also at the provincial level.

15 And often times you have these requirements imposed
16 by the provinces that are -- the central level is
17 not necessarily aware of those requests, or they
18 feign ignorance.

19 And I think that's really the hardest part
20 of this at the moment, is that the companies, when
21 they want to locate a production facility in China,
22 they have to go through many different hoops at many

1 different levels of government, and the
2 requirements differ depending on the jurisdiction.

3 But at the same time, what I really want
4 to emphasize here is that the policy making by the
5 United States has not helped U.S. companies choose
6 to source from other markets. As a matter of fact,
7 even within the last several months, certain
8 decisions have caused some U.S. companies to say
9 well now maybe from a cost perspective it makes more
10 sense to produce in China as opposed to other
11 markets.

12 For example, for technology, it depends
13 on the product of course, but you might have a 20
14 percent tariff on importing from China, and a 20
15 percent tariff on importing from Vietnam. So, what
16 are you going to choose at that point? Our feeling
17 is that if you really want -- if the ultimate goal
18 here -- and we don't know what the ultimate goal
19 is.

20 But if the ultimate goal is helping U.S.
21 companies move their production out of China into
22 allied countries, align trading partners, we would

1 not be hitting our allies with tariffs. That is
2 counterproductive in every single aspect of it, and
3 we've been saying this for years.

4 And this particular period of our history
5 it's even more poignant, and I really think that
6 the Section 301 Committee needs to take a very hard
7 look at our trade policy at the moment, where we're
8 hitting our allies with these incredibly high
9 tariffs, uncertain tariffs, burdensome and complex
10 tariffs.

11 And frankly, letting China off the hook.

12 It doesn't make a whole lot of sense from an
13 industry standpoint.

14 MS. YANG: Mr. Brzytwa, good morning. My
15 name is Michelle Yang, and I'm from the IP Office
16 at USTR. Regarding CTA's comments that China has
17 fallen short on its commitments in Sections E and
18 G of the IP chapter of the Phase One Agreement with
19 respect to enforcement against piracy and
20 counterfeit goods, perhaps this question is better
21 addressed in post hearing comments.

22 But we ask are there certain Phase One

1 commitments where China's failure to implement has
2 had the most harmful impact on U.S. consumers and
3 businesses?

4 MR. BRZYTWA: So, we can certainly follow
5 up in post hearing comments, but what I want to share
6 with you is more of an anecdotal nature. We talk
7 to our member companies all the time, and I have
8 talked to many of our companies, particularly our
9 smaller members, who have seen a significant uptick
10 in brands of technology products being sold into
11 the U.S. market.

12 These are Chinese brands that have never
13 been sold previously on the U.S. market, and all
14 of a sudden they're appearing, and they seem to be
15 perhaps lower quality, perhaps they're counterfeit,
16 but they are offered on e-commerce platforms. And
17 so maybe the same product is made in China, maybe
18 it's made in the United States.

19 But these companies just can't compete
20 with that when there are such low costs, even if
21 they have a recognizable brand here in the United
22 States, a reputable company, been here for decades

1 and decades, maybe they've even produced in China
2 for decades and decades. And now that changing
3 dynamic with all these new brands appearing on U.S.
4 e-commerce platforms is really undermining their
5 competitiveness.

6 So, I do want to respect Mr. Ezell's
7 comments here on notorious markets, I think that's
8 a very interesting idea, but that's not what we're
9 talking about here today. There is a separate
10 discussion of that, but I feel like there is other
11 tools that the U.S. Government needs to use to
12 address these problems aside from tariffs.

13 And we have made this utterly clear in
14 every single submission we've made on Section 301
15 over, and over, and over again. That the tools that
16 you are using today are insufficient to address
17 these problems. The tariffs are just not going to
18 cut it, and it's actually harmful.

19 MR. MILES: Thank you. Ben Miles with
20 Department of Commerce. Mr. Owens, regarding any
21 possible action in this investigation, you
22 suggested tariffs on certain HTS codes covering

1 charcoal grills and fire pits should be increased.

2 We would appreciate your views on whether
3 you think increasing tariffs on these products would
4 help with the extensive intellectual property theft
5 that your company has experienced. Thank you.

6 MR. OWENS: Certainly. And to be clear,
7 on the fire pits, yes, we are asking for an increase.

8 On the charcoal grills we are asking for inclusion.

9 They were neglected in the first round as compared
10 to the comparable gas grills and electric grills,
11 which is interesting, as we are actually producing
12 charcoal grills in the U.S.

13 In terms of the intellectual property
14 theft, whether it will help curb those thefts,
15 that's unclear, in terms of the promotional
16 materials. In terms of the knock offs, it should
17 help. When you can knock off our product and bring
18 it into the country at a significantly lower cost,
19 not incurring the cost of development, the risk of
20 innovation, that's a huge advantage for China.

21 For us to introduce a new grill, we spend
22 years in development, and it's a tool that is a

1 several million dollar item with the expectation
2 that if the grill is successful, we'll start to see
3 knock offs coming in from China the next season.

4 If it's not successful, there will be no knock offs,
5 but we're taking that risk.

6 They sit on the sidelines, and wait to see
7 if it's a successful product, if it is, then they
8 knock it off. We have stopped showing at trade
9 shows, we will no longer go to the hardware show.

10 Last time we went to the hardware show, it was
11 primarily Chinese manufacturers. The new products
12 section was maybe five feet of U.S. manufacturers,
13 the rest of it was Chinese manufacturers.

14 All we're doing by going to those shows
15 is giving advanced copies, and we can't do that
16 anymore. So, we at least have to make it more
17 economically fair if they're going to knock off our
18 product by leveling the playing field.

19 CHAIR BUTLER: Thank you very much for
20 your testimony, that is the end of our questions.
21 We will take an hour break for lunch, and come back
22 at 12:30 for Panel 3. Thank you.

1 (Whereupon, the above-entitled matter
2 went off the record at 11:22 a.m. and resumed at
3 12:33 a.m.)

4 MS. HODGE: Thank you. So, we're going
5 to start the third panel now, and I see that everyone
6 is already seated, so thank you for doing that.
7 Before we start, I think we're going to ask the
8 government panel up here to introduce themselves.

9 So, I'll start, Susie Park Hodge, associate general
10 counsel at USTR. And you want to go this way?

11 MS. ZHANG: Jing Jing Zhang, director for
12 China and Taiwan affairs at USTR.

13 MR. REYNOLDS: Tobias Reynolds,
14 Department of Commerce.

15 MS. WHITEHURST: Annie Whitehurst,
16 Department of Treasury.

17 MS. SCHAEFER: Sonja Schaefer, Department
18 of Labor.

19 MS. BONNER: Sarah Bonner, Office of
20 Manufacturing and Trade at the U.S. Small Business
21 Administration.

22 MS. STEPHENS: Andrew Stephens, U.S.

1 Department of Agriculture, Foreign Agricultural
2 Service.

3 MS. HODGE: Anne Yu, U.S. Department of
4 Health and Human Services.

5 MS. HODGE: Thank you. So, we are going
6 to start the third panel, but just for everyone's
7 awareness, Mr. Will Brown at the Aluminum
8 Association couldn't make it, he had to go tend to
9 an emergency. So, we are going to start with HMTX
10 Industries from the beginning. So, Mr. Steiner?

11 MR. BURCH: Please turn on your
12 microphone.

13 MR. STEINER: Thank you very much, good
14 afternoon. I'm Edward Steiner with Sandler, Travis
15 & Rosenberg representing Harlan Stone, and HMTX,
16 and I'll be submitting his testimony. Thank you
17 very much for the opportunity to testify on the
18 Section 301 investigation into China's compliance
19 with the Phase One Agreement.

20 Harlan Stone is the executive chairman of
21 HMTX Industries, headquartered in Norwalk,
22 Connecticut, HMTX is a global luxury vinyl tile or

1 LVT flooring manufacturer serving a diverse cross
2 section of the construction and renovation
3 marketplaces. HMTX appreciates USTR's efforts to
4 address China's lack of compliance with the Phase
5 One Agreement, and fully supports the importance
6 of enforcing trade commitments.

7 We recognize that China's failure to meet
8 obligations on intellectual property, technology
9 transfer, agriculture, and financial services
10 undermines fair competition for many U.S.
11 industries. That said, we believe the Section 301
12 tariffs on luxury vinyl tile or LVT have been a
13 resounding success, accomplished their purpose, and
14 therefore should be removed.

15 Today I will discuss how Section 301
16 tariffs helped HMTX become a U.S. manufacturer in
17 Pennsylvania, how the LVT industry has gained a
18 foothold in U.S. production, and can compete
19 globally, and why Section 301 tariffs should be
20 eliminated to meet and fuel growing demand. When
21 the Section 301 tariffs were first implemented in
22 2018, HMTX took that as a call to action.

1 We responded decisively to the president's
2 directive to reduce dependence on Chinese
3 manufacturing, and diversify our manufacturing
4 base. In 2018 more than 95 percent of the LVT we
5 sold in the U.S. was manufactured in China. Today
6 that figure is less than one percent.

7 We made this deliberate choice to invest
8 in American production, not only because it improves
9 competitiveness, but because it strengthens our
10 nation's resilience, capabilities, and
11 communities. To make that transition possible in
12 2021, HMTX created a joint venture named American
13 Flooring, LLC., and built a state of the art 315000
14 square foot LVT manufacturing plant in Pittston,
15 Pennsylvania.

16 We began production in 2023, and American
17 Flooring now employs 130 workers with a growth plan
18 that could double that number in the coming years.

19 In fact the U.S. LVT flooring industry stands as
20 a powerful testament to the success of Section 301
21 tariffs. Since 2000, LVT has been the fastest
22 growing segment of the U.S. flooring industry,

1 growing from a 1 percent market share in 2000, to
2 20 percent in 2018, and to 34 percent today.

3 Before 2018 there was virtually no
4 meaningful LVT manufacturing in the U.S. Since the
5 tariffs were enacted, many flooring companies have
6 joined HMTX in moving LVT manufacturing out of
7 China, that is real progress. We have diversified
8 supply, restored American industrial capability,
9 and created new jobs.

10 However, and while the shift has been
11 significant, U.S. capacity still cannot meet all
12 the market's 34 percent growth in demand. Even with
13 substantial investment in domestic LVT
14 manufacturing capacity, and the industry's move out
15 of China, HMTX and other U.S. flooring companies
16 have no choice but to import a significant share
17 of LVT sold in the U.S. from other countries,
18 including Mexico, Thailand, Vietnam, and South
19 Korea.

20 The original goals of 301 were to counter
21 unfair trade practices, and establish a level
22 playing field. In our industry, those goals have

1 been largely achieved. We moved production out of
2 China, expanded American capacity, and demonstrated
3 that U.S. manufacturing can compete globally when
4 the rules are fair.

5 Now that U.S. manufacturing has been
6 established, tariffs must be eliminated so that we
7 can source inputs competitively, and supplement
8 U.S. production with production overseas to meet
9 growing demand. It remains a fact that some inputs
10 and finished goods are simply not available from
11 U.S. domestic or non-China sources.

12 Keeping tariffs on these products now only
13 serves to raise costs for U.S. producers and
14 consumers. If our goal is more American
15 manufacturing, then we must ensure U.S. companies
16 can access essential materials at competitive
17 prices.

18 Eliminating Section 301 tariffs
19 specifically on LVT and key inputs used to make LVT
20 in the United States will strengthen U.S. production
21 by allowing companies like HMTX to expand output,
22 hire more American workers, and lower costs for

1 homeowners, landlords, and builders, especially as
2 housing supply rebounds.

3 In short, removing these tariffs now
4 supports the very domestic capacity that Section
5 301 tariffs helped spark.

6 MS. HODGE: Thank you. Mr. Buckley?

7 MR. BUCKLEY: Thank you. Good afternoon,
8 thank you for the opportunity to appear at this
9 hearing. My name is Richard Buckley, and I serve
10 as commercial director Americas for Almatris, Inc.

11 Almatris, originally Alcoa World Chemicals,
12 produced the first calcined alumina in 1910.

13 Over the past 115 years we have built a
14 global footprint. Under Alcoa under 2004, and as
15 Almatris thereafter, we have operated with a clear
16 philosophy, produce within a region for that region.

17 Today we manufacture across eight locations
18 worldwide.

19 This regional production model clearly
20 differentiates us from our competitors, most of whom
21 rely on one or two production bases, often in Europe
22 or China, to supply the world via exports. Almatris

1 produces alumina based products that are essential
2 inputs for refractories.

3 These refractories enable industrial
4 plants to manufacture critical materials, including
5 steel, aluminum, copper, nickel, cement, and super
6 alloys. Steel and aluminum in turn are
7 foundational to U.S. automotive production, and
8 many other manufacturing sectors.

9 Our products also support the production
10 of jet engines, semiconductor chips, and technical
11 ceramics used in 5G infrastructure and
12 telecommunication networks. In short, Almatris is
13 deeply embedded in U.S. critical industries, and
14 national security relevant supply chains.

15 Yet these supply chains are increasingly
16 threatened by tariff free imports of Chinese alumina
17 based products, which undermine domestic producers,
18 and shift manufacturing and job opportunities away
19 from American workers. We recognize that under the
20 Phase One Agreement, China committed to expand
21 imports of U.S. goods and services by at least 200
22 billion dollars over 2017 levels.

1 However our primary concern lies in the
2 reverse impact. The surge of Chinese produced
3 aluminas entering the U.S. market at essentially
4 cost plus price levels. We have seen a significant
5 increase in imports from China of the same alumina
6 products we produce, particularly under HTS code
7 2818.20.

8 In 2018 when the first round of Section
9 301 tariffs on China was introduced, products under
10 HTS 2818.20 were initially included on the Section
11 301 list. During the comment period however,
12 statements were submitted by competitors and some
13 customers in order to advance their own commercial
14 interests.

15 While we understand that stakeholders
16 advocate for their positions, several of those
17 statements were factually incorrect. Following
18 that testimony, products under HTS 2818.20 were
19 removed from the Section 301 list, exempting them
20 from the 25 percent tariffs. Since alumina based
21 products were removed from the Section 301 list,
22 imports from China have increased nearly fivefold.

1 Approximately ten years ago six alumina
2 plants operated in the United States, today only
3 three remain. Almatis, AluChem, and Atalco, while
4 the others have been forced to close due to off
5 shoring of American jobs to low cost countries,
6 reimportation of those products into the U.S. on
7 a tariff free basis, and imports from countries
8 benefitting from weaker currencies against a strong
9 U.S. dollar.

10 Over the same period the number of trading
11 companies bringing competitive Chinese alumina
12 products into the U.S. has increased from one to
13 six, intensifying pressure on the remaining
14 domestic producers. For Almatis specifically, the
15 exclusion of alumina from Section 301 has had
16 devastating consequences over the past six years.

17 Volume reduction of 27 percent, revenue
18 reduction of 12 percent, profitability reduction
19 by 97 percent, personnel reduction by 23 percent.

20 Absent a change in policy we do not forecast any
21 improvements in 2026. The existing baseline tariff
22 of ten percent on these products under IEEPA

1 fentanyl related measures is simply inefficient to
2 bridge the cost gap with China.

3 A country that has nearly twice the
4 installed production capacity for these products
5 as the entire world's demand. This over capacity,
6 coupled with exemptions in U.S. policy presents a
7 serious risk to the survival of U.S. production.

8 Our analysis shows that a combined tariff
9 of 35 percent, comprising the 10 percent baseline
10 IEEPA fentanyl tariffs, and the 25 percent Section
11 301 tariff would be required to put U.S. production
12 costs at parity with the landed price of Chinese
13 imports. Without such measures, a cost gap of
14 roughly 30 percent remains.

15 In that situation the broader refractory
16 and steel markets will continue to increase their
17 dependence on lower priced Chinese products.
18 Without a change to the Section 301 list, Almatris
19 is actively evaluating discontinuation of half of
20 our domestic product lines.

21 This would result in the layoffs of
22 approximately 50 percent of our U.S. work force.

1 We strongly support robust trade enforcement,
2 tariff implementation, and policies that strengthen
3 the American manufacturing base, protect the
4 American worker, and safeguard U.S. national
5 security, and critical infrastructure.

6 However, we cannot support the current
7 Section 301 exemption that excludes alumina based
8 products from China. In our case, the existing
9 structure has had the opposite effect of what it
10 was intended. It has harmed rather than protected
11 a longstanding U.S. producers.

12 We therefore respectfully request that the
13 Committee include the following HTS headings and
14 all subheadings at the 25 percent level for
15 shipments from China with immediate effect,
16 2818.10, and 2818.20. Aligning these headings with
17 the 25 percent 301 rate would help restore fair
18 competition, support domestic production, and
19 preserve highly skilled American manufacturing jobs
20 that serve critical and national security relevant
21 industries.

22 For more than 100 years Almatris has

1 supplied alumina based products manufactured in the
2 United States to support U.S. steel, semiconductor,
3 and defense industries. It would be a profound loss
4 of trade measures designed to protect U.S. industry
5 instead resulted in the closure of a company with
6 such a long and deep commitment to American
7 production and workers.

8 We appreciate the Committee's
9 consideration of our perspective, and our request.

10 Thank you again for the opportunity to present at
11 this hearing. I welcome your questions and
12 feedback. Thank you.

13 MS. HODGE: Thank you. Mr. Hull?

14 MR. HULL: Thank you for the opportunity
15 to appear today. My name is David Hull, president
16 of Precision Components, Inc. We supply unfinished
17 bearing components under HTS codes 8482 and 8483
18 to U.S. manufacturers. These components are low
19 technology blanks that undergo heat treating,
20 grinding, and assembly within the United States.

21 Processes that add between 150 and 300 fold
22 their value, and support highly skilled American

1 jobs. The section 301 tariffs were designed to
2 counter unfair Chinese trade practices. However,
3 as applied to essential manufacturing inputs such
4 as bearings and bearing components, the tariffs have
5 created severe unintended consequences.

6 Today imports under HTS 8482 and 8483 face
7 a combined effective duty rate of about 92 percent,
8 including the most favored nation base rate, 301
9 duties, derivative 232 duties, IEEPA tariffs, and
10 in some cases anti-dumping duties. As the importer
11 of record, I can state clearly 100 percent of these
12 costs are borne by U.S. companies.

13 China does not pay these tariffs. These
14 inputs are not finished consumer goods, they are
15 the raw materials our customers rely on to make U.S.
16 engineered products. By doubling the cost of these
17 materials, the tariffs undermine the very domestic
18 manufacturing capability they were intended to
19 strengthen.

20 The tariff structure now makes a U.S.
21 manufactured bearing more expensive inside the
22 United States than anywhere else in the world,

1 including China. The exact same American made
2 bearing can be purchased in China at a lower price,
3 this is the definition of economic distortion.

4 Instead of encouraging reshoring our
5 domestic production, the tariffs unintentionally
6 penalize U.S. producers, and give foreign
7 manufacturers a competitive advantage. As a
8 result, several of our customers who are currently
9 performing heat treating, grinding, and assembly
10 in the United States are being forced to consider
11 moving these operations off shore simply to stay
12 viable.

13 Once the competencies move off shore, they
14 rarely return. The tariffs have not resulted in
15 lower Chinese supplier prices, all costs have been
16 absorbed by U.S. companies and consumers,
17 contributing to inflationary pressures, and
18 reducing U.S. export competitiveness.

19 Additionally, the tariffs undermine the
20 benefits anticipated under the U.S. China Phase One
21 Agreement, including improved IP protection and
22 increased purchases of U.S. goods. U.S. farmers and

1 manufacturers have not fully realized those
2 benefits due to the continuing tariff burden.

3 To correct these unintended outcomes while
4 preserving the strategic goals of Section 301,
5 Precision Components respectfully urges USTR to
6 take the following actions. Reinstate or expand
7 product specific exclusions for 8482 and 8483 items
8 that directly support U.S. manufacturing.

9 Establish a targeted exclusion pathway,
10 or expedited review for companies demonstrating
11 significant U.S. added production. Coordinate with
12 the Departments of Commerce and Labor to explore
13 programs or incentives that strengthen domestic
14 processing capacity where feasible.

15 Maintain targeted tariffs addressing
16 proven non-market practices while carving out
17 relief for small and medium enterprises whose
18 competitiveness is directly harmed by broad brush
19 duties on essential inputs. In conclusion,
20 Precision Components is committed to advancing U.S.
21 manufacturing.

22 Our customers operate state of the art

1 facilities, and maintain core competencies in heat
2 treating, grinding, and precision finishing
3 capabilities that contribute to U.S. industrial
4 leadership and export strength. However, the
5 current tariff structure raises the effective rates
6 from 5.8 percent pre 301 to about 92 percent today.

7 Plus putting these -- that puts these
8 capabilities at risk. Without relief, the U.S.
9 risks losing not only production, but also the
10 skilled workforce, and technological leadership
11 that depend on it. We respectfully urge USTR to
12 reassess tariff coverage under 8482 and 8483, and
13 to provide relief that supports U.S. manufacturing,
14 U.S. workers, and U.S. exports. Thank you for your
15 consideration.

16 MS. HODGE: Thank you, Mr. Hull. Mr.
17 McCoy?

18 MR. McCOY: Thank you. The Entertainment
19 Software Association is the U.S. Trade Association
20 for the innovators, creators, publishers, and
21 business leaders reimagining entertainment, and
22 transforming how America plays video games.

1 We're grateful for the opportunity today
2 to respond specifically to the question of what
3 action if any should be taken to address China's
4 non-implementation of its commitments under the
5 Phase One Agreement. We respectfully submit that
6 the administration should avoid any action that
7 would result in additional tariffs on video game
8 consoles, controllers, and other game accessories.

9 We ask for special attention to these
10 products not because of a matter of special
11 pleading, but because these electronic goods are
12 much more than just a market unto themselves.
13 Affordable video game consoles are the hardware key
14 that unlocks a U.S. software and services market
15 with revenues ten times greater than that of the
16 consoles alone.

17 The consoles are less than 5 billion
18 dollars in revenue in the United States, and the
19 games are more than 50 billion dollars in revenue
20 in the United States. That thriving games market
21 is driven by American intellectual property, and
22 it is the games which in turn drive jobs and

1 prosperity, supporting more than 350000 jobs in the
2 United States, directly and indirectly, and
3 contributing a staggering 101 billion dollars to
4 the U.S. economy in 2023.

5 And that is never more true than right now
6 during the holiday season, when video game related
7 gifts are among the top three items on kids' wish
8 lists, close behind cash and clothes. Making
9 consoles less affordable would be uniquely harmful
10 to the video game industry, including small game
11 developers located in every state.

12 Ancillary businesses such as retailers,
13 and all of those employed in the U.S. in the
14 industry, as well as the millions of gamers of all
15 ages who enjoy the power of play. Altogether, over
16 205 million Americans play video games, and 83
17 percent of U.S. households have played at least one
18 video game device in the last year.

19 Video games are a high impact strategic
20 industry for the United States. For the more than
21 104000 jobs we directly support in the United
22 States, the average annual salary is 168000 dollars.

1 ESA's console maker members directly support tens
2 of thousands of U.S. jobs in high value, high tech
3 research and development roles, hardware, software,
4 and online services engineering positions, and
5 creative design and coding jobs in game development
6 studios located across the United States.

7 Console makers collectively invest
8 billions of dollars in research and development in
9 the United States to develop and deliver next
10 generation technology to U.S. consumers. It may
11 come as a surprise then, that video game consoles,
12 unlike many of the other consumer technology
13 products being imported in the United States, have
14 been subject to, and dutifully paying the global
15 reciprocal tariffs announced in April.

16 Fortunately, video game consoles are not
17 currently subject to tariffs under USTR's Section
18 301 investigation into China's technology transfer
19 practices. The list of products known as 4B
20 includes various consumer electronics, including
21 video game consoles, controllers, and accessories.

22 By protecting list 4B from tariffs in 2019,

1 the administration acknowledged the strategic
2 importance of these goods, and the long term
3 planning and implementation required for their
4 supply chain development. ESA members have made
5 headway in dealing with that, and remain committed
6 to diversifying supply chains, and production
7 outside of China.

8 These efforts are still ongoing, as ESA
9 members continue to progressively reduce the
10 percentage of components sourced from China,
11 including over the course of this year. Never the
12 less, supply chain dependencies still persist for
13 certain hard to replace components with few or no
14 substitutes available outside of China.

15 For all these reasons we respectfully
16 submit that USTR should continue to exclude video
17 game consoles and controllers from Section 301
18 remedies, and find opportunities to protect them
19 from other tariffs, including those currently being
20 paid under the administration's reciprocal tariff
21 policies in recognition of the important role of
22 these devices in supporting U.S. leadership in

1 innovative video game technology.

2 And as a gateway to video game play in the
3 United States. New tariffs on video game products
4 would adversely impact the welfare of American
5 consumers, result in lost U.S. sales and jobs, and
6 cripple innovation in the U.S. video game sector.

7 MS. HODGE: Thank you. Dr. Steinbach?

8 DR. STEINBACH: Members of the Section 301
9 Committee, thank you for the opportunity to appear
10 today here. I recognize that my time is limited,
11 so I will focus on the main findings of my research,
12 and leave additional details to my written
13 submission.

14 My name is Sandro Steinbach, I serve as
15 associate professor of agricultural economics, and
16 director of the Center for Agricultural Policy and
17 Trade Studies at North Dakota State University.
18 I am testifying here in my personal capacity.

19 My remarks draw on a recent quantitative
20 study conducted with my colleague Dr. Matthew
21 Gammans that examines how foreign regulatory delays
22 of biotechnology traits affect agriculture

1 production, farm income, work communities, and
2 incentives to innovate in the United States.

3 Also we consider global development
4 environments, the design and operation of China's
5 system plays an outsized role in shaping the
6 results. The core message of our work is straight
7 forward. When foreign approval time lines are long
8 and unpredictable, U.S. farmers gain access to new
9 yield improving traits later, and sometimes not at
10 all.

11 That shows that level and the pace of
12 productivity grows. In our central scenario, a
13 three year delay in access to a typical trait leads
14 over time to very large cumulative losses. By 2050
15 roughly 44 billion bushels of corn, and 4 billion
16 bushels of soybeans are never produced because
17 entire yields are shifted downwards for decades.

18 Those lost bushels translate directly into
19 foregone revenue and economic activity in the United
20 States. For corn, soybean, cotton, and canola
21 combined, we estimate the delayed access to
22 innovation between 2026 and 2050 produces a

1 discounted value of farm cash receipts by about 150
2 billion dollars.

3 On an annualized basis, total U.S.
4 economic output is about 7.4 billion dollars lower,
5 and roughly 24600 jobs are not supported each year.

6 These employment effects are concentrated in rural
7 America, where equipment dealers, input suppliers,
8 and processors depend on farm level activity.

9 The same mechanisms that reduce yields and
10 revenue also erodes the value of innovations
11 themselves. When firms anticipate long foreign
12 approval time lines, or the risk of trade
13 disruptions, they shorten commoditization windows,
14 or scale back research entirely. In our real option
15 framework, the expected net present value of a
16 typical biotechnology trait falls by about 26
17 percent under realistic approval delays.

18 And by nearly half under more restrictive
19 assumptions. In some circumstances, expected
20 returns become negative. That changes which traits
21 are developed in America, how much is invested, and
22 how quickly new productivity enhancing technologies

1 reach U.S. farmers. China is central to this world.

2 For major biotech trades, it often takes
3 six to eight years, and in some cases more than a
4 decade to obtain input approval in China after U.S.
5 authorization. The process is frequently not
6 transparent, with shifting technical requirements,
7 and extended periods of inaction.

8 Because access to the Chinese market is
9 critical for many U.S. crops, these delays
10 effectively give China's regulatory system de facto
11 control over the timing of U.S. innovation, and
12 the adoption choices of U.S. farmers even after a
13 trade has cleared our own science based review.

14 From the perspective of this
15 investigation, there are two implications. First,
16 when China does not implement its Phase One
17 biotechnology commitments in a timely and
18 predictable manner, the United States is denied the
19 full benefits that we anticipated under the
20 Agreement.

21 The burden on U.S. commerce is visible in
22 lower farm income, weaker rural employment, and

1 reduced returns to private and public R&D. Second,
2 persistent uncertainty about Chinese approval
3 forces firms and producers to manage their own risk,
4 and waits are economically costly by delaying
5 launches, constraining adoption, or abandoning
6 otherwise valuable innovations.

7 I do not take a position on the specific
8 mix or level of remedies that the Committee should
9 recommend. My role is to clarify the scale and
10 persistence of the economic harm created by
11 regulatory delays and non-implementation.

12 The evidence from our work suggests that
13 enforcing timely science based approvals in large
14 export markets, and in particular ensuring that
15 China fulfills its Phase One Agreement commitments
16 would improve the conditions of competition for U.S.
17 agriculture, unlock additional productivity gains,
18 and strengthen long run innovation incentives.

19 Thank you for your attention, and for the
20 opportunity to testify. I look forward to your
21 questions.

22 MS. HODGE: Thank you. So, that was all

1 the testimonies for the third panel, so we are going
2 to move to the questions portion. And before we
3 dive into that, I would just remind the platform
4 and panel up here, that before you ask your question,
5 please state your name, and your agency. So, we'll
6 start with Commerce.

7 MR. REYNOLDS: Hello, this is Tobias
8 Reynolds from the Department of Commerce. This
9 question is for Mr. Steiner. In your testimony you
10 stated that you recognize China has failed to
11 implement the Phase One Agreement, could you comment
12 on how the flooring industry has been impacted by
13 any non-implementation of its commitments under the
14 Phase One Agreement?

15 MR. STEINER: Thank you for that question.
16 HMTX will respond to that in post hearing comments.

17 MR. REYNOLDS: Thank you.

18 MS. WHITEHURST: Thank you. This is
19 Annie Whitehurst with the Department of Treasury,
20 my question is for Mr. Buckley. We understand the
21 primary point of your testimony is to urge inclusion
22 of certain HTS headings under Chapter 28 in any

1 action that might be taken in this investigation.

2 You also briefly mentioned concerns with
3 the Phase One agreement in China's purchase
4 commitments. Can you please elaborate on these
5 concerns?

6 MR. BUCKLEY: Yes, thank you for the
7 question. Our main concern is not so much the
8 purchasing of our product in China, it's the reverse
9 impact of -- my understanding of the Phase One
10 Agreement is that it was supposed to kind of level
11 the trade deficit that we have with China.

12 Unfortunately with the exclusion of the
13 HTS codes that we manufacture, what we have seen
14 is a fivefold increase of imports. And the long
15 term implication of this is if the domestic
16 production disappears, then critical U.S.
17 infrastructure that needs that material, you need
18 alumina in making steel, you need alumina in
19 refractories to make steel.

20 If that disappears, then you're going to
21 be reliant, we will be reliant on Chinese raw
22 materials for critical infrastructure needs, for

1 critical industries, steel, automotive, aerospace,
2 national defense. Our product, calcined alumina,
3 tabular alumina is critical for all those
4 applications, especially with 5G power,
5 telecommunications, those are all critical
6 industries for us.

7 So, our concern is without leveling the
8 playing field of our products, what's going to
9 happen is our customers are going to simply source
10 more and more from China. In fact I just heard last
11 week that one of our largest customers is committed
12 to buying all of their material in the first quarter
13 from China.

14 That's a significant impact for us, so
15 that's the concern that I have overall from the
16 industry. Thank you.

17 MS. HODGE: SBA?

18 MS. BONNER: Thank you. This is Sarah
19 Bonner from SBA. The question is for Mr. Hull. In
20 your testimony you state that Chinese tariffs on
21 U.S. goods undermine the benefits anticipated under
22 the Phase One Agreement. Could you please advise

1 or address how the four policy recommendations that
2 you've outlined would address that issue?

3 Additionally could you address whether
4 your industry has been impacted by any
5 non-implementation by China of its commitments
6 under the Phase One Agreement?

7 MR. HULL: I'm not as knowledgeable about
8 whether or not China has addressed their commitments
9 under the Phase One Agreement. My testimony is
10 pointing towards the fact that the punishment for
11 not meeting those requirements is doing more damage
12 to certain sectors of U.S. manufacturing than it
13 is doing good.

14 Particularly, with all of the accumulation
15 of tariffs, the raw material, or I guess I should
16 say non-precision blanks that U.S. producers are
17 using to make bearings has doubled because of the
18 92 percent tariff stacking. Not only that, the
19 paperwork involved with the addition of the 232
20 tariff has -- our U.S. Government import paperwork
21 has gone from one page to six.

22 There is a great deal of undermining of

1 U.S. production because they cannot get raw
2 materials at a globally competitive rate because
3 of all the tariffs. U.S. manufacturing of hand
4 tools, and vacuum cleaners has already left the
5 United States. We are now, with the addition of
6 these tariffs, working our way up to the John Deere
7 combines, and the Caterpillar tractors.

8 And at 92 percent, 70 percent of the
9 world's bearings are made by 10 companies. Those
10 10 companies have manufacturing all over the world.

11 My U.S. customers are looking at moving their
12 manufacturing out of the United States because most
13 of the product they produce in the United States
14 is exported.

15 So, if they move their production to their
16 existing facility in China, and make that product,
17 they won't have to pay any of the duties, and they
18 can export from China to anywhere in the world.

19 Did that answer your question? I kind of lost track
20 of.

21 MS. BONNER: Thank you for clarifying,
22 thank you so much.

1 MR. HULL: You're welcome.

2 MS. HODGE: Thank you. Next we have a
3 question for Mr. McCoy.

4 MS. YU: Hi, Mr. McCoy, I'm Anne Yu from
5 HHS, similar to the prior question in a way. Thank
6 you so much, in your testimony you focus on possible
7 action and the application of tariffs on video
8 games. Could you discuss whether the video game
9 industry has been impacted by any
10 non-implementation by China of its commitments
11 under the Phase One Agreement?

12 MR. McCOY: Sure. Our focus today has
13 been on the remedial question, but I'm happy to share
14 some observations on the Phase One commitments that
15 matter the most to us. We participate in a group
16 called the International Intellectual Property
17 Alliance that submits annually on China's progress
18 on IP protection and enforcement via the special
19 301 process.

20 And we will submit again at the end of
21 January, so I'll refer you to that for more details.

22 But as you know, the U.S. Government interagency

1 has been working on this problem of protection and
2 enforcement of IP in China for many, many years.

3 The commitments that stand out the most
4 to our industry as needing improvement are the
5 Article 1.26 of the Phase One Agreement, the
6 commitment to improve criminal enforcement.

7 Article 1.27 of the Phase One Agreement, the
8 commitment to provide deterrent level penalties.

9 And Article 1.13D of the Phase One Agreement, the
10 commitment to tackle online infringement, including
11 proper handling of counter notifications.

12 MS. YU: Thank you.

13 MS. HODGE: Thank you. USDA question for
14 Dr. Steinbach.

15 MR. STEPHENS: Yes, Andrew Stephens at
16 USDA. Thank you for your analysis of the economic
17 impact of delayed foreign approvals for biotech
18 traits. What would you estimate the economic
19 burden is to the United States of China's delays
20 specifically, and what factors do you consider in
21 conducting such an estimate?

22 DR. STEINBACH: Thank you for the

1 question. As my testimony pointed out, the
2 majority of the delays is actually an issue that
3 is applying to China, however the United States also
4 faces delays in approval in other countries, in Asia
5 in particular, but also in the European Union.

6 Those have been improving significantly
7 over time, the European Union in particular has now
8 a framework in place to speed up approval processes.

9 So, China is currently one of the major barriers
10 when it comes to regulatory approval of new
11 biotechnologies and crop varieties into the Chinese
12 market. Thank you.

13 MS. HODGE: And DOL has another question
14 for Dr. Steinbach.

15 MS. SCHAEFER: Sonja Schaefer, Department of
16 Labor. Dr. Steinbach, you mentioned that China's
17 failure to ease regulatory hurdles such as they
18 committed to do as part of the Phase One Agreement
19 leads to weaker rural employment, and the lost
20 opportunities of approximately 24600 jobs.

21 Could you expand on that? Also, have you
22 studied any other potential loss of American jobs

1 in related industries, or downstream industries
2 related to China's non-compliance?

3 DR. STEINBACH: That is a great question,
4 thank you very much. So, what we have done is an
5 economic impact evaluation, where we looked into
6 the lost exports that we would have in the Chinese
7 market without the biotechnology regulatory
8 approval delays, and we used the numbers in terms
9 of trade flows to then estimate economic impact.

10 The USDA Economic Research Service is
11 releasing multipliers every year that allow you to
12 estimate basically the overall input out
13 relationships, and employment across the sector
14 basically. And what we have done here, we took
15 those multipliers to get an overall estimate on what
16 are the lost jobs in rural America from those delays.

17 Thank you.

18 MS. HODGE: Thank you. Unless any of my
19 colleagues here have any other questions, I think
20 that concludes our hearing today. And I would like
21 to thank this panel, and also all the witnesses that
22 participated today. As Philip Butler mentioned

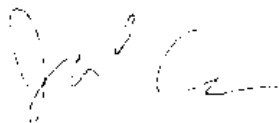
1 this morning, post hearing comment submissions are
2 due in one week on December 23rd.

3 Should you need to supplement any of the
4 answers you've provided to the panel today, please
5 use that same portal, and same docket that you used
6 to file your written comments, and please always
7 feel free to reach out to us if you have any
8 questions. Thank you, and hope everyone has a good
9 day.

10 (Whereupon, the above-entitled matter
11 went off the record at 1:15 p.m.)

C E R T I F I C A T E

This is to certify that the foregoing transcript was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings; and that I am neither counsel for, related to, nor employed by any of the parties to this action in which this matter was taken; and further that I am not a relative nor an employee of any of the parties nor counsel employed by the parties, and I am not financially or otherwise interested in the outcome of the action.



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