S. HRG. 115–624

MARKET ACCESS CHALLENGES IN CHINA

HEARING

BEFORE THE

SUBCOMMITTEE ON INTERNATIONAL TRADE, CUSTOMS, AND GLOBAL COMPETITIVENESS

OF THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ONE HUNDRED FIFTEENTH CONGRESS

SECOND SESSION

APRIL 11, 2018

Printed for the use of the Committee on Finance

U.S. GOVERNMENT PUBLISHING OFFICE
36–645—PDF WASHINGTON : 2019

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MARKET ACCESS CHALLENGES IN CHINA

WEDNESDAY, APRIL 11, 2018

U.S. SENATE,
SUBCOMMITTEE ON INTERNATIONAL TRADE,
CUSTOMS, AND GLOBAL COMPETITIVENESS,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 2:30 p.m., in room SD–215, Dirksen Senate Office Building, Hon. John Cornyn (chairman of the subcommittee) presiding.

Present: Senators Grassley, Roberts, Thune, Scott, Casey, McCaskill, and Cardin.

Also present: Republican staff: Madison Smith, Legislative Assistant for Senator Cornyn. Democratic staff: Livia Shmavonian, Legislative Assistant for Senator Casey.

OPENING STATEMENT OF HON. JOHN CORNYN, A U.S. SENATOR FROM TEXAS, CHAIRMAN, SUBCOMMITTEE ON INTERNATIONAL TRADE, CUSTOMS, AND GLOBAL COMPETITIVENESS, COMMITTEE ON FINANCE

Senator CORNYN. Good afternoon, and thank you for being here today.

I was just telling Senator Casey I was struck by a recent article in *The Economist* which refers to Bill Clinton's statements back in March of 2000, where he said American opinion on China was divided into two camps, one he called the optimists who would see China becoming the next great capitalist tiger with the biggest market in the world, and then he said there were the hawks and pessimists who saw China stubbornly remaining the world's last great communist dragon and a threat to stability in Asia. They conclude that China, Xi Jinping, is a great mercantilist dragon under strict communist party control using the power of its vast markets to cow and co-opt capitalist rivals, to bend and break the rules-based order, and to push America to the periphery of the Asia-Pacific region. And they conclude that this has led to one of the starkest reversals in modern geopolitics.

The focus of today's hearing is on an important international market, the second-largest economy, and that is, of course, the country of which I was just speaking, China, also the United States' largest trading partner and the third-largest export market for U.S. goods abroad. While the legitimate flow of goods and services between the United States and this nation has increased over the years, the statistics alone do not tell the whole story. We must also consider the national security context. Within 7 years, China will pose the greatest threat to U.S. national security of any nation, according to the Chairman of the Joint Chiefs of Staff.

As China's population grows and as its economy continues to modernize, the Chinese market will continue to emerge as an attractive one for U.S. businesses seeking the opportunity to serve the Chinese consumer in all sectors. But unfortunately, while Chinese companies enjoy largely unfettered access to the United States market and an economy that is open to investment, U.S. companies are not afforded with reciprocity in this regard.

In order to paint a picture of the persisting problem, we have to review the historical context. In the 1980s, China first sought entry to the rules-based global trading system known as the World Trade Organization. After years of deliberation and negotiation, an agreement was reached in 2001. This agreement allowed for China's accession to the World Trade Organization if it agreed to comply with a number of free market principles: tariff reductions, equal footing for foreign businesses, and the removal of implicit and explicit barriers to trade. Moreover, China would have to adhere to global principles under the TRIPS agreement to protect and enforce intellectual property rights.

Fast forward to 2018, 17 years later, and China has still not lived up to those promises and commitments it made under WTO. China's authoritarian regime, its One Belt, One Road Initiative, and its Made in China 2025 plan are part of a comprehensive agenda to promote state-driven industrial policies that distort and disadvantage U.S. firms that are simply seeking free market competition with Chinese companies.

U.S. companies seeking to do business in China often encounter—I would say always encounter—a protectionist system, one that employs predatory practices and promotes domestic subsidized industries over foreign competitors. The U.S. Trade Representative's 2017 report on China's WTO compliance explains that today's situation in China is even worse than it was 5 years ago, as the state's grip on the economy continues to increase. But even more alarming is the fact that U.S. technology companies often report China's blatant attempts to steal sensitive and proprietary intellectual property.

In many instances, China has simply used trade as a weapon, coercing U.S. companies to enter into joint ventures and other business agreements that require the company to hand over key technology and know-how—the so-called "secret sauce"—simply in order to gain market access. This practice has already begun to erode America's technological advantage and undermine our defense industrial base. That is why I have introduced legislation, along with Senator Feinstein, called the Foreign Investment Risk Review Modernization Act to combat this epidemic and modernize the Committee on Foreign Investment in the United States.

It is also my understanding that President Trump and his administration are currently considering potential temporary actions under existing authority to ensure investment reciprocity and protect U.S. national security, in part because CFIUS, as it currently is enacted, lacks adequate authority under its current statute.

China's restrictive market is highly concerning. And multiple administrations have attempted to engage China's leaders on their trade practices. China will even send students to American colleges and universities for STEM-related degrees, only to have them return to China and further advance their goals. It is part of their comprehensive strategy.

Unfortunately, many rounds of high-level diplomatic talks have not yielded progress, often resulting in commitments made with zero action. Take the latest comprehensive economic dialogue, for example. The 100-day plan on trade yielded commitment from China, most of which has not been followed up on.

Discussions may continue in the future, but one thing is clear: China's market access reforms are too slow, and barriers still exist. Reciprocal treatment for U.S. companies should not be too much to ask; indeed, it is the bare minimum of what we demand.

It is my hope that today's hearing will paint a clear picture of the problems that persist with access to China's market and that significant reforms will follow. With that, let me turn it over to Ranking Member Casey.

[The prepared statement of Senator Cornyn appears in the appendix.]

OPENING STATEMENT OF HON. ROBERT P. CASEY, JR., A U.S. SENATOR FROM PENNSYLVANIA

Senator CASEY. Thanks very much, Mr. Chairman. I want to thank Senator Cornyn for this hearing and for our witnesses.

Whether it is steel or tires or high technology, industries across a State like Pennsylvania, and indeed across the country, face significant challenges when it comes to China. Whether through forced technology transfer or joint ventures, theft of intellectual property or straight-up barriers to entry, U.S. firms and manufacturers have been fighting for decades to get the same treatment for American products in China as Chinese exports see in the United States.

When Ambassador Lighthizer came before this committee just a couple of weeks ago, he stated in part of his testimony, quote: "The costs of globalization are falling most heavily on workers." I will repeat the last five words: "falling most heavily on workers." I could not agree more. And this is backed up by studies by the Economic Policy Institute, and not too long ago by a study done at MIT by economist David Autor and his coauthors, David Dorn and Gordon Hanson. All of these studies lend credence and lend data to that assertion.

Just in short, summary fashion, the MIT study said that roughly 40 percent—40 percent—of the decline in U.S. manufacturing just between 2000 and 2007 was due to a surge in imports from China.

That has been the experience of Pennsylvania. We have had a record loss in manufacturing jobs over the last generation, economic devastation that none of us could even begin to describe or fully understand, lives that have been completely destroyed, communities wiped out, trauma and suffering that flow from the job loss: suicides, family breakups, opioid addiction, all kinds of traumas in the aftermath of that kind of job loss.

It started to present itself in the 1980s. There was a 4- or 5-year period in the early 1980s when tens of thousands of steelworker jobs were lost in southwestern Pennsylvania. By one estimate, in

5 years or less, half of the steelworker jobs in that region were lost, from about 90,000 to 45,000. And it just continued from there.

I have to say, I do not think that in the last 40 years at least, either party here in Washington has done nearly enough. Neither party, in my judgment, has had a strategy, and neither party has focused on a way forward. And this applies, of course, to multiple presidential administrations and many sessions of Congress.

Workers need an answer for what happened to them—and continues to happen to them. U.S. industries have been under a sustained attack from China—our steel, our aluminum, manufacturing—in the past decade. And now China has given us the playbook for their next line of attack: robotics, rail equipment, advanced medical products, just to name a few. Pennsylvania knows all too well what may be in store for the rest of the country if we do not address the systemic threat that China presents.

After the collapse of the steel industry, the city of Pittsburgh found its way back, reinventing itself with the help of civic leaders, foundations, universities that are on the cutting edge in robotics and advanced technology. China, in its 2025 plan that Senator Cornyn referred to, is coming after all of that too.

So I am glad we are having this hearing today, and I hope it begins a much-needed conversation on the type of comprehensive strategy we need to address the threat posed by China. If you do not have a strategy that undergirds the development of an answer, you will not get the results that we all agree on: ensuring U.S. workers have the skills they need to compete, insulating our communities from economic shock, and preventing China from literally stealing our future.

Part of that is making sure our communities have access to immediate economic assistance when large job loss or a localized recession occurs, which can happen for any number of reasons outside of trade. The goal is always to prevent economic shocks from happening, but if they do occur, we must respond, and respond quickly. I have put forward a bill on this issue and would welcome the insights of the panel on a future date.

China has made no secret about its strategy to push the rules to their limit and, when advantageous, break those rules outright. They know that by the time a trade case reaches its conclusion, the damage to an industry has been done.

The U.S. needs a sustained and coordinated strategy to address the threat posed by China, and the United States should work with our allies to execute it. This is not a problem unique to the United States, and there is no need to treat it as such. We must address the barriers China puts up that prevent our companies from competing on a level playing field.

So I am glad to be working with Senator Cornyn and others on these critical issues. It is clear that he and so many people in both parties care deeply about this issue. We appreciate our witnesses being here today to help us shed light on this challenge. Thank you.

Senator CORNYN. Thank you, Senator Casey.

[The prepared statement of Senator Casey appears in the appendix.]

Senator CORNYN. I want to take a moment to introduce our witnesses. The first is Mr. Dean Garfield. Mr. Garfield serves as the president and CEO of the Information Technology Industry Council. Our second witness is Ms. Christine Bliss, who is president of the Coalition of Services Industries. The third panelist is Ms. Linda Dempsey. She is vice president of international economic affairs at the National Association of Manufacturers. And our final witness today is Thea Lee. Ms. Lee serves as president of the Economic Policy Institute.

Let me join Senator Casey in thanking each of you for being here today and sharing your thoughts with us. I will start with Mr. Garfield. If each of you would limit your initial presentation to about 5 minutes, we promise you that any additional remarks you have will be made part of the record. But we would like to get to ask questions and exchange ideas.

So, Mr. Garfield, I will recognize you, sir.

STATEMENT OF DEAN GARFIELD, PRESIDENT AND CEO, INFORMATION TECHNOLOGY INDUSTRY COUNCIL, WASHINGTON, DC

Mr. GARFIELD. Thank you, Chairman Cornyn, Ranking Member Casey, members of the subcommittee. On behalf of 63 of the world's most dynamic and innovative companies that are members of ITI, we thank you for holding this hearing.

I can think of no issue more important to America's economic and technological future than the bilateral relationship between China and the United States.

We have submitted my testimony for the record, so for purposes of this hearing, I would like to focus on three things: one, what is at stake and the obstacles we face in China; two, why we continue to compete in that market; and three, what the U.S. Government, Congress, and the administration can do to help.

With regard to the first, which is, what is at stake, it is America's economic and technological future. We are experiencing now innovations like AI, 5G, quantum computing that are some of the most historic in human history. China recognizes that and is doing things that are both legitimate and illegitimate to put its thumb on the scale in favor of its local champions so they can corner the market on the frontier innovations of the future.

The list of pernicious protectionist measures is long; many have even called it a tapestry. So for purposes of this hearing, I will focus on three elements of the quilt.

China has become expert in foreclosing strategic elements of its market from foreign competition. A case example of that is in cloud services. Eighteen of the 20 largest cloud service providers in the world are U.S.-based. Unfortunately, those cloud service providers do not have free and reciprocal access to the Chinese market.

In fact, those companies cannot directly engage in cloud services in China. They cannot engage in contracts with Chinese customers. And they cannot directly operate cloud services in China. In fact, China has the most restrictive cloud services rules in the world. In contrast, Chinese companies that provide cloud services have unfettered access to the rest of the world.

A second element of the quilt that gives you a sense of the norm in China is China also has become expert in overwhelming companies with an avalanche of vague rules, regulations, standards, and practices that create opportunities for mischief. For example, the 2016 cybersecurity law in China was complemented by an array of rules and regulations that culminate in a cybersecurity review regime that empowers agencies and municipalities to pressure companies to provide access to their source code and, as well, to transfer sensitive technologies. Our companies have become adept at navigating the straits and avoiding turning over their seed corn to the future to China. Nonetheless, in facing those pressures, they certainly operate in that market at a disadvantage.

The trifecta in the quilt in China is what you alluded to, Senator Casey, which is the practice in China of making commitments that they do not ultimately keep.

China, when it ascended to the WTO, committed to opening up the Chinese market to financial services. Thereafter, China lost a WTO case on electronic payment services. And in 2013, it committed to opening up the market. Again, in Mar-a-Lago in 2017 they committed to doing the same and still have not.

That may raise the question as to why our companies continue to compete in China. The answer is, you cannot be a global company and ignore one-fifth of the world's population. It would be akin to Starbucks saying they are going to have a store on every corner with the exception of California, Pennsylvania, and Texas. It just does not make sense. As well, in the tech sector, in order to acquire customers, you must compete globally, which means also competing in China. So the choice for our companies is competing in China or not competing at all. Our companies have chosen to compete, and that is in part why we need the assistance of both Congress and the administration.

What we recommend is twofold, which fits in a singular basket, which both Senator Cornyn and Senator Casey raised, which is, we need a broader strategy that has two pillars. One is making sure that we are working with our allies to advance our interests with China. And what that means at this moment is focusing more on building that coalition, getting to the bargaining table with China, and putting in place timelines and accountability mechanisms to make sure that we are changing their behavior—so, focusing more on that and less on tariffs.

Finally, what it means is investing more here in STEM and the other essentials for being successful in those areas of frontier innovation.

Thank you for this opportunity, and I look forward to your questions.

Senator CORNYN. Thank you, Mr. Garfield.

[The prepared statement of Mr. Garfield appears in the appendix.]

Senator CORNYN. Ms. Bliss?

STATEMENT OF CHRISTINE BLISS, PRESIDENT, COALITION OF SERVICES INDUSTRIES, WASHINGTON, DC

Ms. BLISS. Chairman Cornyn, Ranking Member Casey, subcommittee members, I appreciate the opportunity to present the views of the Coalition of Services Industries, which represents a wide spectrum of services sectors, from financial services to IT services to professional services, media and entertainment, logistics, just to give you a sense of the breadth of whom we represent.

China was the United States' second-largest export market in 2017 and is one of the fastest-growing markets for U.S. services. But we need to make sure that we can take advantage of those opportunities, so I want to highlight some particular areas of concern, and they are going to overlap with a couple of the areas, if not all the areas that Dean mentioned in his testimony as well, just to demonstrate how incredibly important digital trade is for the economy as a whole and certainly the services sector.

In information and technology services, China fails to provide nondiscriminatory market access for a broad range of online services, requiring joint venture partners for online services and then failing to issue the necessary licenses to provide those services.

On cloud services—which, again, you just heard highlighted—the United States should secure China's commitment that it will allow U.S. cloud service providers to provide all the necessary licenses for the operation and provision of cloud services, remove existing investment restrictions, permit U.S. cloud services to use their trademarks and brands and to sign contracts for the provision of cloud services, and enable U.S. cloud services providers to procure telecommunications services for the provision of cloud services on a nondiscriminatory basis.

China also maintains barriers to cross-border provision of video and music services as well as cross-border data services, including virtual private networks. And more broadly, and of great concern, China blocks a wide range of legitimate U.S. websites and services.

China's cybersecurity law is another area of concern that has the potential to create additional discriminatory barriers and, particularly with respect to its requirement that personal data be stored domestically and the fact that it is as vague and broad as it is, has created confusion and uncertainty as to how it will exactly apply and to what types of data it will apply.

Before highlighting China's financial services barriers, I just want to thank Finance Committee members, including Senators Cornyn, Scott, Heller, Crapo, Portman, Cassidy, Isakson, and Thune, for your September 17th letter to the administration highlighting the barriers to trade and investment that financial services face.

Currently, to illustrate, there is a 50-percent cap on foreign equity in life, health, and pension companies that has existed since China entered the WTO in 2001. China's 2017 announcement that it would allow 51-percent foreign ownership in Chinese life insurance companies in 3 years and lift that restriction entirely in 5 years is very welcome. But the key here is implementation and follow-through. China has not authorized any U.S. investment in the enterprise annuities sector. And there is a 33-percent cap in the securities sector.

There is also an unlevel playing field in the banking sector, as U.S. banks are subject to a 20-percent investment ceiling for single foreign shareholders and a 25-percent investment limit for multiple foreign shareholders in local Chinese banks. China has announced that it will increase foreign direct investment in domestic securities firms from 49 to 51 percent, with a commitment to remove that 51-percent cap within 3 years.

Electronic payment services—another area that we share in common with the comments made by ITI—is a very important area. In May 2017 in the U.S.-China 100-Day Action Plan, one of the commitments China made was to open the domestic market for U.S. electronic payment services. There are several U.S. EPS suppliers that have filed license applications; they remain pending. And we urge China's commitment to full and prompt market access for U.S. EPS suppliers.

In conclusion, we believe that fully realizing the tremendous potential the Chinese market represents requires not only that specific services and investment barriers be addressed, but we think there must be systemic changes across the Chinese economy. And CSI believes this can be best achieved by ensuring that the U.S. establishes a clear framework for engaging in bilateral negotiations with China with defined objectives, a timetable, and close coordination with our allies.

I thank you very much, Mr. Chairman, for the opportunity to present our testimony.

Senator CORNYN. Thank you very much.

[The prepared statement of Ms. Bliss appears in the appendix.]

Senator CORNYN. Ms. Dempsey?

STATEMENT OF LINDA MENGHETTI DEMPSEY, VICE PRESIDENT, INTERNATIONAL ECONOMIC AFFAIRS, NATIONAL ASSOCIATION OF MANUFACTURERS, WASHINGTON, DC

Ms. DEMPSEY. Chairman Cornyn, Ranking Member Casey, members of the subcommittee, thank you for the opportunity to testify today on manufacturers' views on market access challenges in China. The National Association of Manufacturers, NAM, is the largest and oldest manufacturing association in the United States, representing over 14,000 manufacturers in every industrial sector in all 50 States.

Manufacturing employs 12.6 million women and men across the country, contributing a record $2.25 trillion to the U.S. economy in 2017. U.S.-China commercial relations are a top priority, given both the challenges and the opportunities this relationship presents. It is fair to say that our Nation's relationship with China is complicated—very complicated.

On the one hand, there are few places in the world where manufacturers in the United States export more or have increased sales more. As a result of China's lowering of tariffs and implementation of many of the rules of the WTO system, manufacturers in the United States have been able to export more goods to China than to any other country outside of our NAFTA partners, Canada and Mexico. Manufacturers exported nearly $96 billion in goods in 2017, which in turn supports hundreds of thousands of U.S. manufacturing jobs.

Exports of "Made in the USA" manufacturing goods to China have grown by more than $76 billion since 2002, more than to any other country besides Canada and Mexico. Similarly, our friends in the agricultural sector have seen similar levels of growth, which help manufacturers sell to our domestic farmers, in terms of equipment, fertilizer, seed, cold storage, and the list could go on. This is especially important for manufacturers, because more than half of the manufacturing workforce depends for their paychecks on exports overseas.

But on the other hand, there are few places in the world where trade has proven more challenging for American manufacturing. We face substantial unfair, discriminatory, and distortive practices in China that are harming U.S. manufacturing and manufacturing workers and are holding our country back.

Among the most troublesome issues on which I expanded in my written testimony are localization policies, such as Made in China 2025, that discriminate against U.S. companies; intellectual property rights and enforcement that are insufficient for the 21st century; standards, technical regulations, and conformity assessment procedures that limit our ability to compete on a fair and equal basis in China; subsidies and other measures that distort the market and create damaging and unsustainable overcapacity; investment restrictions that depress market access and foster harmful technology transfer; state-owned enterprises that create unfair and uncompetitive conditions of competition; tariffs and other import regulations that block U.S. exports; and transparency and the rule-of-law issues. While some of these challenges can be addressed through the existing WTO rules, others require new approaches. The question is how best to address them.

We at NAM believe it is time, long past time, to undertake a truly comprehensive and focused strategy designed to achieve the best outcomes for American workers and enterprise. That means pursuing a modern, innovative, and comprehensive bilateral trade agreement with China that wholly restructures our economic relationship.

As NAM president and CEO Jay Timmons explained in a letter to the President on January 8th, "To be successful, such a free and fair trade agreement must eliminate barriers that unfairly block American companies and American manufacturing exports from full access to the Chinese market, raise standards in China and create new rules to prevent the wide range of market-distorting practices that violate free markets and fair competition and hurt American businesses and workers, and create clear mechanisms to mandate strong and binding enforcement of the agreement, providing channels for the government and industry alike to address cheating and violations."

This is at once both a radical and, in our view, the most effective and pragmatic way forward. This approach must also be combined with ongoing enforcement of the WTO rules to which China has committed, usage of U.S. trade remedy rules to address unfair trade practices that are harming our industries and workers, and intensive work with our trading partners to address systemic challenges that are undermining trade globally. Targeted actions, such as tariffs, can provide some relief in the short term to some manufacturing industries, but they harm others in the form of significant added costs or provoke China to take further destructive actions.

Ultimately, we think it is best to address directly the systemic issues that have given rise to the underlying challenges in the first place. The U.S.-China commercial relationship has provided significant opportunities for the American economy and manufacturers. As a massive and growing market, it holds the promise of continuing to do so, but to achieve that, to be sustainable, the trading relationship simply must be more fair and more open. That is exactly what a comprehensive bilateral trade agreement with China would help achieve.

Thank you.

Senator CORNYN. Thank you.

[The prepared statement of Ms. Dempsey appears in the appendix.]

Senator CORNYN. Ms. Lee?

STATEMENT OF THEA M. LEE, PRESIDENT, ECONOMIC POLICY INSTITUTE, WASHINGTON, DC

Ms. LEE. Thank you, Chairman Cornyn, Ranking Member Casey, members of the subcommittee, for the invitation to participate in this important hearing today. I am the president of the Economic Policy Institute, the Nation's premier think tank analyzing the effects of economic policy on America's working families.

Seventeen years after China acceded to the WTO, the bilateral economic relationship between our two countries is enormously lopsided and problematic. The U.S. goods deficit with China is the single-largest bilateral deficit between any two countries in the history of the world, and it continues to trend upward, despite more than 20 U.S. challenges to China at the WTO, despite earnest annual bilateral talks and commitments, and despite all the reform commitments China made upon accession.

Furthermore, it is not just the sheer size of the trade imbalance with China that is of concern. It is the composition. The U.S. ought to be a leader in advanced technology products. A wealthy, technologically savvy, high-skilled, capital-intensive country like the United States would be presumed to have a comparative advantage in ATP. However, the U.S. runs annual deficits in advanced technology products of over $100 billion, and that is entirely accounted for by China. That is to say, we have a trade surplus in ATP with the rest of the world.

This one fact alone should be a signal that there are significant anomalies in the U.S. trade relationship with China that cannot be explained by market forces. Overall, top U.S. exports to China include raw materials, agricultural products and waste materials, as well as aerospace, while our imports are concentrated in computers, electronics, miscellaneous manufactured commodities, and apparel. This is not the profile of imports and exports that would be expected between countries at the respective economic development levels of China and the U.S.

According to USTR, China is still not fully compliant with the commitments it made during the WTO accession process, as has been talked about today. American companies trying to do business in China face theft of trade secrets, counterfeiting, inadequate protection of intellectual property, online piracy, industrial policies that promote domestic goods at the expense of U.S. products, subsidies, discriminatory product standards, the dumping of excess capacity, and restricted access for American services.

Seventeen years after accession, China has not even listed all of its restricted export subsidies, let alone eliminated them, as was promised. In addition, China has used currency policies to gain an unfair competitive advantage over American business and labor.

This litany of unfair trade practices, together with currency manipulation, has had a serious negative impact on American jobs and wages. As my colleague Rob Scott has shown, the U.S. trade deficit with China cost jobs in all 50 States and the District of Columbia while also putting downward pressure on the wages of manufacturing workers and, in fact, all non-college graduates.

It is no secret that the Chinese government has a long-term economic strategy to build certain sectors through subsidies as well as through purchasing, tax, and regulatory policies. These plans set targets for indigenous production, use of technology, favorable treatment for state-owned enterprises, and discriminatory treatment of foreign brands and companies, among other things. These practices are deep and pervasive.

There are two problems here, and we should be careful to distinguish them. On the one hand, many of the Chinese government's practices are inconsistent with international rules and norms, not just the WTO, but also international conventions on workers' rights, public health, human rights, environmental protections, intellectual property rights, and consumer safety. The U.S. touts the importance of a rules-based system, but if some players, like China, flout the rules with impunity over decades, then the rules-based system becomes a trap for those who comply.

The U.S. Government's piecemeal and scattershot enforcement strategy has been time-consuming and ineffective, as well as uneven. For example, our government has not even raised in any significant or meaningful way China's failure to comply with its obligations as a member of the International Labor Organization. This means that American workers and businesses are competing on a tilted playing field, since Chinese workers cannot exercise their rights to form independent and democratic unions.

The Chinese government is clearly playing a long game, while the U.S. is egregiously shortsighted. Our trade policies have been so inadequate in scale and slow in implementation that by the time we take action, it is often a decade too late, with the result that our trade actions are ineffective, if not counterproductive.

We need to reform our domestic trade laws so we can act expeditiously. Going forward, we must address new barriers to trade in services and e-commerce. We need to make sure that we have and are willing to use measures to address currency misalignment.

Our trade enforcement measures should prioritize good jobs, workers' rights, democracy, environmental compliance, and consumer safety over outsourcing and short-term profits.

In summary, the U.S. Government needs to develop and articulate its own long-term economic development strategy. It needs to use domestic tax, infrastructure, and workforce development policies to ensure that American workers and businesses have the tools and the skills they need to compete successfully.

But our government also needs to strengthen our trade compliance and enforcement measures and be willing to use them aggressively and consistently and in a timely manner to ensure that our trade relationship with China is both reciprocal and fair.

Thank you for your attention. I look forward to any questions you may have.

Senator CORNYN. Thank you very much, Ms. Lee.

[The prepared statement of Ms. Lee appears in the appendix.]

Senator CORNYN. We will be doing 5-minute rounds with questions, and I will start.

Maybe, Mr. Garfield, I will start with you. It strikes me that most Americans, when they look at China, do not fully appreciate the fact that this is a country under communist party control and that one of the motivations of the party and of the country is to grow their economy, for obvious reasons, but also to control their people and to further their surveillance on their own people by, for example, maintaining data on their people in their country and not making it available more broadly because that undermines their goal of control.

But also, in their approach to stealing intellectual property or, through creative investments, getting access to not only the intellectual property, but the know-how in order to build a product maybe that has been invented here in the United States, they do threaten American jobs, because they undermine the industrial base here. And if they can make it in China using Chinese workers, obviously that is to the detriment of American workers.

So when you think about how we look at China, is that an accurate description? Or do you see some differences?

Mr. GARFIELD. I think it is fair. Even when you are on the ground in China, which I have been double-digit times, it is often easy to forget that you are in a market that is state-operated and -controlled, with that as a fundamental pillar of their existence.

I do not think that difference alone suggests that we should not be engaging with China. I think what it suggests is, given the level of state control and their desire to maintain control over their population, the United States also has to play the long game and develop a strategic outlook that has in mind leveraging our strategic advantages.

Senator CORNYN. Well, Ms. Bliss, let me ask you this. Given what Mr. Garfield has said—and I do not disagree with him at all—how do we get China to embrace a rules-based regime where the rule of law is applied impartially no matter who is involved, when it seems so committed to its overall goal of economic growth and undermining any advantage of the United States?

For example, the USTR's 2017 report on China's WTO compliance track record said the U.S. erred in supporting China's entrance into the WTO on terms that have been proven ineffective.

I mean, the reason why China was accepted in the WTO was the idea that they would then have to comply with WTO policies and decisions and rules. If they do not recognize those rules as authoritative or controlling, how do we deal with China?

Ms. BLISS. Thank you, Senator. Well, I think there a couple of ways that we respond. And I would agree—as I said in my oral statement, and I think you have heard from other witnesses this afternoon—that we very much support playing, as Dean said, the long game. In a sense, we believe there needs to be an established process where we get the Chinese to sit down at the negotiating table with well-defined objectives and a timetable, but we do that in concert with our allies in order to exert maximum pressure.

I also think that we avail ourselves—which I think the United States has been doing, but could also step up—of existing commitments under the WTO. And I would say that there are some examples of where our hope is that the WTO commitments and the dispute settlement process will ultimately yield positive results in this area.

And the example I would give is the electronic payment services, where China not only lost the case, was informed by a WTO panel that it was inconsistent with its WTO commitments, but then, in the 100-day initiative, recommitted to address that and to allow U.S. EPS suppliers into the market. There are now, as I am sure you are aware, a number of those license applications pending. And our view is, now is the time to ensure that China follows through on these commitments and issues those licenses.

So that is one example where I know you question the effectiveness of the WTO, but I think there is an opportunity to show that it can be effective with China.

Secondly, I think the administration's current 301 response, where they have indicated their decision to take forward an aspect of that with respect to licensing to the WTO, is another example where we can take advantage of WTO rules in forcing China to really live up to its commitments.

But finally, I would say we are concerned that under the current environment, we do not think that turning to things like escalating tariff threats is going to be an effective way to secure meaningful systemic reform in China.

So I think the bottom line in our view is long-term, consistent pressure to negotiate, working with our allies with clearly defined objectives, and using tools that are available to us, which we continue to believe are effective. And we would include in that the WTO.

Senator CORNYN. Senator Casey?

Senator CASEY. Thanks very much.

I want to start with Ms. Lee. I was glad that you focused in part of your testimony about the impact on jobs and wages here in the U.S. We have heard these numbers so many times, so many different versions of them, and the enormity of them, I think, even escapes our imagination.

There is a growing body of research, in addition to the work that EPI has done—and we appreciate that work. The MIT study I mentioned in my opening statement about just a 7-year period—40 percent of the decline in U.S. manufacturing is attributable to the surge in Chinese imports. So can you discuss the impact in terms of not just jobs, but also in particular wages—U.S. wages, I should say?

Ms. LEE. Thank you very much, Senator. And this is a really important issue, and it is one that I think got a lot more attention when David Autor and his colleagues at MIT did their study, which was very carefully done. They were looking at counties that were importing a lot of the products that we import from China, and they were measuring the impact on jobs and wages.

And one of the things I think that is not well understood is, people talk about the benefits of free trade, but I think even economists understand that there are winners and losers. But the magnitude of the difference is, I think, part of what is important, which is, there can be very small net economic gains, and there can be very large distributional impacts. And I think that is what we see from the trade relationship with China. It is not entirely what we would expect from economic theory.

Dani Rodrik at the Kennedy School has said it could be as much as five to one, that the dislocation and the disruption and the distributional impact could be five times greater than the net gains. And so this is something.

One of the points that I made is, it is not just the workers who lose their jobs because of imports from China or because of outsourcing to China, but this is a labor market. And so workers who are not directly impacted, who do not directly lose their job, could also be impacted by downward pressure on their wages. So even service sector workers who are not in the traded sector could feel that impact.

And that is really a massive effect on the U.S. labor market.

Senator CASEY. So the wage impact is substantial?

Ms. LEE. Very substantial and in some ways more important than the number of jobs that are directly displaced.

Senator CASEY. No city in the United States can claim to have the recipe for how to recover from huge job loss. Pittsburgh has done as good a job as any, I think, in modern history. It did not happen overnight. It did not happen because they had a guidebook. They had to do a lot of trial-and-error, invest in technology. They had big institutions, medical research, big universities, foundation support, public/private efforts, a whole range of things that were done.

But if you look at not just the Pittsburgh circumstance, but just more broadly, what do you think we need to do to confront this challenge in terms of what we can do affirmatively in addition to confronting China? And I guess a more particular way of talking about it is, how do we keep our workforce more competitive?

Ms. LEE. Thank you for that question. I think, you know, if we think about it as the supply and the demand side, on the supply side, I think that is the responsibility of the U.S. Government to invest more heavily in retraining and education and skills for American workers.

The U.S. Government, compared to other governments, especially in other industrialized nations, under-invests in our workforce. And that is something, you know, that we continue to see in the most recent budgets. And so that is an easy place to start. But also, I think we need to make sure that we are, you know, building those supply chains and the manufacturing extension partnership, that we are supporting cutting-edge manufacturing. We do not need to keep all manufacturing here, but the United States should have a competitive edge in really advanced manufacturing.

And there are apprenticeship programs for advanced manufacturing skills that I know the AFL–CIO has invested in that could be really important. There are programs like Jobs to Move America, which is helping to tie public transit purchases to rewarding companies that are producing those trains in the United States and using American workers and training those workers and really investing in their workforce. So I think those are the kinds of programs that we should be looking at, in addition to making sure that our trade policy is fair and that we are enforcing the trade laws that we have on the books.

Senator CASEY. I am just about out of time. Maybe I will go to the other panel members on the next round, but thank you.

Senator CORNYN. Senator Grassley?

Senator GRASSLEY. Yes. Instead of asking questions, I would like to reflect on a trip I had with Senators Daines, Johnson, Perdue, and Sasse to China a couple of weeks ago. We visited five cities; we did not visit any of the rural parts of the country. And Daines, Johnson, and Perdue have been to China many times connected with businesses, so they know better than I do about China and what they do that way.

But I had various ideas about China before I went there, and all I can say is, they were made very real to me, some assumptions I had, like their status as a developing nation, to still be considered such, that does not meet the common-sense test. I think a common-sense test for me was, if they want to do business, their businesses doing business in the United States—they are the second-largest economy in the world; we are the largest—if they want to do business in our country, we ought to be able to do business on the same basis in their country. That is just what common sense tells me.

If China was the 50th-largest economy in the world, that would be a whole different story. But number one and number two ought to be able to operate pretty much the same way.

I kind of came away with the opinion that they will do anything legal or illegal, anything moral or immoral, anything ethical or unethical—do whatever they want to to get ahead and to stay ahead.

And I had a chance with the political leaders in each one of the five cities, we each of us had an opportunity to present our views and ask for their rebuttal. I said that I am one of the few members of the United States Senate who is still in the Senate who voted for China to be in the WTO. I thought it was a very good thing that they be in the WTO, and I suppose I still think that they ought to be in the WTO, because that signifies living by the trade rules that we have under our international organizations.

And I said it has not turned out the way that I anticipated with you violating all these rules and doing what you do to foreign competition. And I said, you know, I kind of feel like I should be sorry for my vote. And of course, they assured me I should not be sorry for my vote.

And then you keep hearing from them, well, we want to have dialogue with the United States. Well, we have been having dialogue with them for a long, long time. I told them my view—you know, not that they are going to listen to me, but they have to hear me, what I think—you know what needs to be done, you just ought to do it.

But they are, as you said, I think, Ms. Lee, very strategic, and we are very shortsighted. That is our fault. But if you want to do business in that country, do you have to give them all your trade secrets? They steal our trademarks. They make fake products. They violate everything.

And so I will end with this, to whoever of you said, we need new laws. I would like to have my colleagues look at a bill that Senator Brown and I have put in that would take a lot of what countries want to do here into consideration, particularly if they are going to buy into the United States and buy our research and development and all that sort of stuff.

Then lastly, the former Governor of Iowa is now the Ambassador to China. And I saw him at several of our meetings over there. But I came to this conclusion from visiting with Chinese political leaders: because of his 30-year relationship with President Xi and American business people over there as well as our foreign service officers, I got a feeling that he was the right choice for the President of the United States to choose to be our Ambassador there.

Thank you very much.

Senator CORNYN. Thank you, Senator Grassley.

Senator Roberts?

Senator ROBERTS. I do not know if I can top that. [Laughter.] Although I understand, Mr. Chairman, that you did invite Mr. Smoot and Mr. Hawley to come and testify; I do not see them. [Laughter.]

Senator CORNYN. They were busy.

Senator ROBERTS. I do not know if they are in the audience or not, but I do recall I knew them, but Senator Grassley worked with them at that particular time. [Laughter.]

Ms. Dempsey, you are the only witness who brought up agriculture, and I appreciate that, although there was a connection, I think, with Ms. Bliss too. And I do appreciate the two pillars and the testimony of all the witnesses.

China has obviously, Mr. Chairman, been at the forefront of our trade policy agenda here in recent weeks—or months for that matter. Most significant has been the administration's enforcement actions now following the conclusion of investigations regarding section 232, steel and aluminum imports, and section 301, the intellectual property and technology transfer practices, which have been referred to by all of the witnesses.

But as we have seen numerous times, Mr. Chairman, agriculture is often the first industry impacted when retaliatory measures are enacted. And with the recent announcement of Chinese tariffs on U.S. products, many of which are agriculture products, they are the first ones that they pick. It is clear that history may be repeating itself. I hope that is not the case.

The U.S. exported nearly $20 billion in agriculture products to China in 2017. That made it one of the top export markets for U.S. agriculture. But let me point out that over the last 3 or 4 years, farm prices are down 40 percent. Farm income is down 52 percent. So, when we have a tariff that is announced in response to whatever negotiations are going on and all of a sudden we find out, in response to washing machines and solar panels, sorghum producers in my State, whose price was about the cost of production, all of a sudden find out their basis points are down 80 percent. Boom, just like that.

And in the second place, as we keep going with that, now we have the additional—I do not know what to call them—I guess measures that the President has mentioned and that the administration has mentioned, Wilbur Ross and Mr. Navarro and Bob Lighthizer.

I had a long talk with Bob Lighthizer about this here just the other night. And some of us are going up to the White House tomorrow. Obviously, we are involved in agriculture, and we are worried about the retaliation.

And here we have the soybean market off 17 percent. The sorghum producers that I mentioned, when I was at the White House, they were in my office. And when I came back, they said, "What in God's name did you do?" I said, "Hey, it was not me, coach." You know, one farmer was in tears. He said, "You know, I had to sell at this particular time." So you can see the ramifications here.

So during an already challenging time for farmers and ranchers, drastic trade policy measures will have a compounding effect on producers in rural America. Everybody up and down Main Street is nervous about trade—everybody in the food chain and all the lenders.

And by the way, Senator Casey is a Senator I really respect. He is a very valuable Senator on the sometimes powerful Senate Agriculture Committee. And I understand your plea for workers with regards to Pennsylvania.

Pennsylvania is also a big ag State, and farmers and ranchers and growers are also workers, and they work from dawn to dusk. And I hope we do not get into a situation where one is pitted against the other. That is not what we should do.

So, what has the administration proposed here in terms of proposing tariffs? I think the President has signaled, at least in the press—and we will learn about that possibly tomorrow—about using the Commodity Credit Corporation and using money to offset some of the problems that we have experienced with regards to prices in the farm sector.

We do not need that. We do not want another subsidy program. What we want is a market. We have to sell our product, we have to sell things we make, but we also have to sell things that we grow. And we are in a rough patch in agriculture today. So I am very hopeful—and any witness who wants to can comment about this—but I hope we do not go down that road of creating some very cumbersome and very difficult-to-implement if not impossible program from the CCC.

What do you think about—the President mentioned this sometime back; he has not mentioned it since. I hope maybe after tomorrow he will mention it again. How about the 11 countries that joined on the TPP program, what about making efforts to get back in sync with the TPP? If there is ever an opportunity for the United States to plant the American flag and also have their back and also increase trade—you know, propositions all throughout the Pacific—it would be that. That would be my best suggestion, either that or, well, both sell something or else signal that we are interested in getting back with the TPP.

Would any of you like to comment?

Ms. DEMPSEY. Maybe I can start. I mean, the National Association of Manufacturers had wanted to see a strong TPP go forward, and we were disappointed that it did not. If there is an opportunity for the United States to get back in as part of the TPP, I think that is important. It would set the rules of the international trading system.

We also, though, think we have to take this moment with China. We have to act urgently to get new rules of the road. When China joined the WTO in 2001, the rules were written in 1994 for most of it. Right? We did not have an Internet, we did not have the digital economy and the cyber issues. We did not have the growth in trade that we have now seen today.

We have to get China to, at the negotiating table, not just dialogues where statements are issued, we have to get them at the negotiating table to an agreement that is fully enforceable. And we can do that through working with our TPP partners, but we also have to do that bilaterally.

Senator ROBERTS. Well, thank you for your comments. My time has long since expired.

Senator CORNYN. I think, Mr. Garfield, you had a comment; you wanted to respond to Senator Roberts?

Mr. GARFIELD. Yes.

Senator ROBERTS. I am sorry, Mr. Garfield. Please.

Mr. GARFIELD. I think your point about farming is an apt one. One of the things that has been surprising about the discussion over the last 3 weeks around China is how much it has unified the broad business community across three pillars, I would say. One is the need to redefine the relationship with China. What we are doing is simply not sustainable. Second is the importance of doing things that work, which means avoiding tariffs. They have not worked since McKinley or Smoot-Hawley and will not work now. And then third is doing all the things that we have been talking about in alignment here on the panel, which are, developing a strategy and pushing China with clearly defined dates and accountability metrics.

When China acceded to the WTO, there were no timelines against which China would do the things that it committed to do. In fact, 2 days ago, President Xi recommitted for the fifth time for China to open up its financial services sector.

And so, unless we push China to commit to a date certain and have a metric for measuring whether they are doing it, we will simply continue to repeat the current cycle.

Senator ROBERTS. Well, let me just close by saying that I agree with the President, I agree with everybody who has said, all of the witnesses, that long-term—and it is going to have to be a long-term policy with regards to China—you are going to have to have systemic change in China. That may be an oxymoron; I hope it is not. But that is one thing.

But short-term, for goodness' sake, do not, in this business of playing your cards of trying to get a better deal for the United States or a better trade situation, do not do so at the expense of American agriculture, which is going through a very difficult time.

And I do not like this business of using farmers and workers as pawns in this particular game, because every sector of ag now is in trouble, and they are worried to death and very nervous about that future.

And I want to thank you all for your comments. Sorry for going overboard.

Senator CORNYN. Senator Cardin?

Senator CARDIN. Well, Mr. Chairman, first, thank you for convening this hearing. And I thank all of our witnesses.

And I just want to underscore the point that Senator Roberts made. I recently took over as the ranking Democrat on the Small Business Committee, and farmers are small-business owners. And over half of our exporters to China are small businesses.

So what concerns me is, we talk about these policies concerning China and how companies have to adjust. If you are a small-business owner, it is almost impossible to adjust.

So I would hope we could get some suggestions as we talk about how we engage on trade, our sensitivity to small-business owners who are engaged in export, international trade, because they really are getting caught without any ability to handle the consequences of these trade discussions.

I do not know if any of you have any suggestions focused on small businesses, but I would welcome those.

Ms. DEMPSEY. Maybe I will start. You know, over 90 percent of the NAM's members are small and medium-sized businesses. And actually, one of our small-business members of our board of directors was on the House Small Business Committee today talking exactly about these types of trade issues.

I mean, small-business owners, certainly our manufacturers, face many of the same challenges that bigger companies do, but they face more challenges because they do not have outside legal teams, inside legal teams, and the whole support network to deal with these challenges.

Senator CARDIN. So how do we help them? How do we, how does the USTR, how does the trade discussion become sensitive to our smaller companies?

Ms. DEMPSEY. The three items that our small-business colleague mentioned today at the Small Business Committee on the House side were, first, making sure that we have strong and enforceable trade agreements with clear rules.

You know, they are in China and facing multiple changes to medical equipment regulations and different standards. That makes it really hard for a small-business owner to compete. They have done great in terms of exports to China; will that continue? That is hard. If we can get China to agree to strong, accountable rules, that is part of it.

Another piece for us is, getting things like our Export-Import back into full functionality. And we would like to see the Senate move forward expeditiously on the nominees that are awaiting confirmation.

The other thing is, the Small Business Administration has programs, like the STEP program and other trade promotion activities. Our trading partners overseas, our friends and allies and those who are not, do a heck of a lot more to help their small businesses export and participate—market intelligence and assistance—than we do here in the United States.

We have to look really clear-eyed at ways that we can use the resources we have. We have excellent resources at the Commerce Department; our foreign service officers that Senator Grassley was talking about should be making sure that those activities are coordinated with the States, because the States do a lot of export promotion now too.

But clear rules, defined rules, that type of support, and certainty. And that is why trade agreements and those types of things are so important.

Senator CARDIN. I think that is helpful.

I want to get to Ms. Bliss for one second. I appreciated your testimony and responses to some of the questions.

I just want to get to the overall strategies we have on China that I think are not well understood, primarily because of the President's lead on general tariffs on steel and aluminum under section 232, and then coming under section 301 against China specifically, where we have legitimate problems with China on intellectual property. But it gets confused as to whether we are going after specific problems in countries or whether we are just trying to protect our domestic industries, as seen by the international community in the credibility of our programs.

We did not use the antidumping claim this go-around, which is better understood and is specific to a country. Instead, we used a general tariff. And I just would like to get your view, as a person who was in the USTR, as to how this affects America's credibility globally, working with our trading partners to understand our policies in regards to China, which we have legitimate concerns about, but the manner that we are going about packaging that, international trade policies.

Ms. BLISS. Well, thank you, Senator. In that regard, I think, as I have said, that certainly wearing both maybe my old USTR hat, but also at CSI, we honestly think that it is critically important at this stage to clearly define what the objectives are. Now, a lot of that work has been done, because there was tremendous work put into the 301 investigation with respect to tech transfer and IP. So I think there is no question that measures have been looked at, have been identified.

But I think, in terms of pressing forward on what should be accomplished, there still needs to be a roadmap, and I think that is what we have been really waiting to see in terms of, what are the specific objectives, what is the timetable, what happens if those objectives are not reached?

And I think a critical part of that, as I have said, is working with our allies, which I think the United States government does to a great degree. But I think now, more than ever——

Senator CARDIN. We did not in regards to the steel and aluminum.

Ms. BLISS. No, I am not saying that. I am just talking about China right now.

Senator CARDIN. But it came right after steel and aluminum——

Ms. BLISS. Right. No, I understand that. But I am just saying that, to be effective in focusing specifically on China, I think working with our allies—and even though it is out of my area of expertise at this point—I think the same could have been done with respect to steel and aluminum, although that issue seems to be working itself out.

I would say, and I just wanted to add, that I think services is an important part of the trade picture in going forward and figuring out where the benefits are.

Senator CARDIN. I agree with you. I think their rules on services—and our penetration on services is so low compared to our capacity to be involved in services in China.

Ms. BLISS. Exactly.

Senator CARDIN. And their rules on investment limitations, et cetera, are just so protectionist. We clearly need to take actions.

But I guess my point is that that is how we should be going after China, where we have very strong claims that are understood by the international community rather than using, again, the broad stroke, as we started, with aluminum and steel at this point.

Mr. GARFIELD. I was in Brussels 2 weeks ago, and they were very clear about their interest in working with the United States on these issues. And our colleagues are heading to Japan and Korea next week, and the interest in partnering and working with the United States is high. The concern they have is that they do not see the broader strategy, and they think the focus is solely on tariffs, which our allies are not interested in.

And so, if we can make clear that there is a broader strategy and that it goes beyond tariffs, I think we would be surprised at the number of nations that are willing to work in collaboration with us.

Senator CORNYN. Senator Scott?

Senator SCOTT. Thank you, Mr. Chairman. And thank you to the panelists for being here this afternoon.

Certainly, our trade approach perhaps is unorthodox at this moment. I do think that we are going beyond the trade scope. I think I would break it down to three "t"s, Mr. Chairman: trade, tariffs, and theft.

And perhaps we are conflating some issues at times, but really, long-term, I think the President's objective is to make sure that we are still in business in the next generation. And if we allow the theft to continue from an IP perspective, we will find ourselves wishing we would have addressed it differently in the past, looking back a generation from now.

I think the importance of goods in this conversation cannot be emphasized enough. I come from South Carolina, a State where we were fairly anti-trade for a hundred-plus years, and in the last decade or two, maybe three, we have seen a renaissance. And now we have BMW that exports 100,000-plus cars from South Carolina to China. We are building the new Volvo plant. We have the country's largest exporter, Boeing, in my backyard, Mercedes as well. So we have a lot of folks who are focused and interested in the goods part of the trade conversation.

I am on the Banking Committee, so I have spent a little time on the services part as well. And I think as we look at the portfolio of who we are as Americans and what we will produce in the future, 75 percent of the U.S. private sector is in services. About $731 billion of our exports are services, about 80 percent of our GDP.

So while we spend a lot of time, and we should, on the goods component or aspect of our trade conversation, it is truly important that we spend a fair amount of time on the future economy of this country, which will be driven by our services and our ability to engage this world around those services. And I would note that our services trade surplus with China has grown from, in 2007, $1.3 billion to, 2017, around $38 billion. Now, this is just a smidgen—which is southern for "small." [Laughter.]

Now, I know that kind of confuses people sometimes. But the fact of the matter is that we are growing in the right direction. And if we get the rules right with China, we can grow exponentially faster in a shorter period of time.

That growth would be better, Mr. Garfield, as you were just talking about, if we made sure that we hold the folks in China accountable for the timelines that they set out.

And to that, if you think about it, China prohibits American firms in banking and insurance from establishing wholly owned operations by capping their ownership levels. Of course, when the Chinese financial services providers come here, they do not face the same barriers. And so the conversation around reciprocity, I think, is actually a healthy conversation and a necessary one.

In November, China announced plans to remove its foreign ownership equity caps in financial services over the next 3 years. President Xi reiterated those comments this week. Good news, I think, Mr. Garfield.

Maybe not good enough, Ms. Bliss, so I am going to ask you to answer a question—two questions for you. Number one, when you are focused on China's approach to services, I think there is a lot of fine print in the contracts that we have to pay close attention to. My understanding is that the Chinese securities regulatory commission is currently writing draft rules to implement these changes. Is there something we should watch for that would not allow U.S. firms to compete on a level playing field as promised? Do you think the 3-year roadmap is a realistic one?

Ms. Bliss, if you would start, and anyone else who wants to can jump in in my 45 seconds that I have left.

I have noted, however, that we typically give each Senator 12 minutes in this hearing, and I appreciate that.

Senator CORNYN. We will come back for another round.

Ms. BLISS. Thank you very much, Senator Scott, and for your comments about services. Because certainly, one of our missions at CSI is to educate about the role of services in the economy and the very positive role that it has in job creation and in good jobs, and jobs of the future in particular.

But let me turn specifically to financial services. I think we see the notion of—certainly with respect to life insurance, China has talked about lifting the 51-percent cap entirely in 5 years. So we see that as a positive development. And with respect to securities, similarly, we look in a positive way at the timetable for that to be lifted.

And really, I think the answer to your question is "yes," it is a welcome development for two reasons. One is, because it is a commitment that we can solidly and hopefully enforce; and two, because it sets a specific timetable.

So I think our challenge is to make sure that we are there the whole way, pushing and making sure that it happens and talking about what happens if it does not. So I absolutely agree with you.

And if I can add just a couple of things on the services side. I think that, certainly, in terms of the future, one of the points that we like to make, which I think is very important, is the role that services play in other sectors of the economy, like manufacturing and agriculture.

Senator SCOTT. Yes.

Ms. BLISS. So I would just mention that, because when you talk about how eight out of 10 of us are in services jobs, if you look closely in manufacturing, 25 to 49 percent of the import in manufacturing is services.

So a lot of the jobs that are being created in smart manufacturing, which is critically important to our future, are services jobs.

Senator SCOTT. Absolutely.

Ms. BLISS. So thank you.

Senator SCOTT. Thank you.

Thank you, Mr. Chairman.

Senator CORNYN. Thank you, Senator Scott.

I am interested, Ms. Bliss. I think you said something along the lines that the aluminum and steel tariff issue is working its way out—or something like that. Am I putting words in your mouth? And if not, would you—if I am, please clarify that, and if you would, sort of tell us what you meant by that.

Ms. BLISS. I think what I meant more generally was that the administration approach to that particular issue, for which I claim no expertise and I am not involved in with respect to my association, seems to be on a road—I am not endorsing it one way or another—but that is all my comment really meant.

Senator CORNYN. Okay. Okay. Thank you.

Given the nature of the Chinese government and their desire for economic growth and stability in their political system, why in the world would they want to participate in a trade war with the United States? Do any of you have any comment on that or any response? Because it strikes me as counterintuitive that they would want to do anything that would create either economic uncertainty or political instability.

Mr. GARFIELD. Well, I do not think they want a trade war. I think President Xi has spent the last 6, 7 years consolidating power for reasons that are important locally.

Senator CORNYN. He has done a pretty good job.

Mr. GARFIELD. Yes. And if there is the potential of eroding that consolidation of power, then he and the nation will push back aggressively. And I think that is what we saw with the tit-for-tat discussions around tariffs.

I think you raised an excellent point, though. One of the things I have learned over the years in visiting China is that there are Chinese companies and individuals within the Chinese government who have significant concern about the trade norms in China. And so part of the work is actually empowering those companies and those potential allies within China to begin to stand up on the need for China to align with global norms.

Senator CORNYN. Several of you have mentioned that we ought to be playing the long game when it comes to China, but I am a little concerned about what happens in the near term, which may affect the long game. In other words, if China is able, through theft of intellectual property, to undermine our industrial base by strategic investment in the United States, including startup companies that may not even be on our radar screen, I just wonder how much time we have before they basically beat us in the near-term game so that, long-term, they are the dominant economy. And meanwhile, they continue to build their military, project military power, in order to protect that position.

Ms. DEMPSEY. You know, I think one of the issues that this administration, this President, has brought to the table is the urgency of the situation. And my remarks on a bilateral trade agreement with China—that is not a long game, that is something we should be engaged in right now with real timetables to move this forward, because we have to solve these issues now rather than later.

The Chinese market—Mr. Garfield talked about the ICT sector. Think about autos, which the Senator from South Carolina, Senator Scott, was talking about. Last year in China, there were nearly 30 million vehicle sales. Contrast that to the United States market, about 17.5 million vehicle sales.

We have to be part of that market. We have to find a way to grow in that market. And right now, the rules are stacked against us. We have old rules. We can bring them to comply with the WTO rules that are clear-cut. There have been many cases that the U.S. Government has brought—rare earths, raw materials, auto parts, some others—where the rules were absolutely clear; China actually complied.

But we do not have clear enough rules on a lot of these issues right now. We have unfair trade practices that both Ms. Lee and I talked about. We need to make sure that our own rules there are enforced as well, but we have to act now.

And I think it is really important that both of you have brought this hearing together today, but that is our message.

Ms. LEE. And, Senator Cornyn, I think that is a really excellent point. I have been in this trade debate for a long time, for a couple of decades, and a decade ago this was an urgent question. And the AFL–CIO, where I used to work, was in partnership with a lot of small businesses that were also feeling that they were being completely undermined by China's currency policies at that time and others.

And so, you know, I think the urgency is important. And in one sense—you asked about a trade war. I know Clyde Prestowitz from the Economic Strategy Institute will say we have been in a trade war with China that they started a long time ago, and we have been losing, and so when we come to the table——

Senator CORNYN. I am not sure we have been fighting back.

Ms. LEE. Right. Well, that is because we have not recognized that we were in the war. And we come to the table very late.

And, you know, I think that the current policies, the trade policies, the tariff policies, that the Trump administration has put in place have not been well messaged, they have not been well implemented, they have not been thoughtfully addressed with respect to our trading partners. And yet, we definitely do have the attention of the Chinese government.

And I think you are right and Mr. Garfield is right, that the Chinese government is looking for a trade war, because we already have this tremendously imbalanced trade relationship. They cannot even find enough U.S. exports to put tariffs on, because the imbalance is so great. So I think that the urgency is important.

And I just wanted to quickly address the issues about agriculture and small business that were raised by your colleagues.

If you look at the immediate impact, I think people are concerned about what will happen if there is retaliation; will farmers be in the crosshairs? They will, and small business will be impacted.

But we need to step back and take in the bigger picture that I think other people have also raised, which is that, if we can address the totality of Chinese unfair trade practices, including currency, including subsidies, it will actually help both small businesses and farmers.

Senator CORNYN. Well, I know, Ms. Dempsey, you said we need to get a bilateral agreement with China. Most of us are concerned with the more immediate concerns about section 232, section 301, and NAFTA renegotiation. And it is almost like our plate is overflowing, and the idea of undertaking something of that magnitude is daunting.

But let me ask you again. There has been some discussion about TPP. I think many of us think the President has not been well advised when it comes to trade issues, and we are hoping that with Mr. Kudlow onboard and with his track record that he will provide a more balanced advice to the President on these issues.

But I have heard the President say that the 11 countries that entered into the TPP, absent the United States, have now come back to the United States to see if we would be interested in joining. Is that a real prospect? Because it strikes me that TPP may be one of our best weapons—"weapons" is not the right word—one of our best instrumentalities to try to engage China constructively on trade and to leverage our allies, as many of you have said we should be doing when it comes to dealing with China on trade issues.

Mr. GARFIELD. I actually think this is a place where the Senate, and Congress generally, can be incredibly impactful.

Two things. In recent conversations with Ambassador Lighthizer, he has raised that both publicly and in private. There is the question as to whether that is something this Congress would support.

And so I think, to the extent that there is clarity, that it has a path to success, that would be incredibly helpful. And so anything that you and your colleagues could do to clearly communicate that, I think would be quite helpful.

The second thing that has been really surprising to us in the whole back-and-forth with China with this administration over the last few weeks, particularly over the last few days, is just the lack of urgency in sitting down face-to-face with China to take advantage of the moment. And that is something where I think some encouragement from Congress on Secretary Mnuchin to get on a plane and advance these negotiations in the immediate term, so we can take advantage of what President Xi is saying, would be quite helpful as well.

Senator CORNYN. Well, thank you for that.

I would just remind all of us that Trade Promotion Authority in and of itself was not an easy lift. And so the idea of actually approving some other trade agreement in this political environment is far from a certainty. So there are challenges everywhere.

Senator Casey?

Senator CASEY. Thank you, Mr. Chairman.

I wanted to put something on the record to respond to the distinguished chairman of the Agriculture Committee, Senator Roberts.

He and I might have a disagreement about when I was making points about workers, but I do not think this is one of those false choices where you can choose to support workers or farmers when it comes to China. Everyone loses if we do not confront China.

They have really taken advantage of our workers and our economy, so I hope we do not get into pitting one group against the other, because we are all going to lose if we do not confront them. And we have not confronted them; neither party has done a very good job on this.

Senator CORNYN. I thought he was just pulling your leg.

Senator CASEY. Well, I just wanted to make sure the record was clear before we moved on.

Now, Ms. Dempsey, I am calling on you not only because you have roots in Pennsylvania, but it helps.

I want to talk to you about IP theft, because I know we have been referring to a number of the consequences of our failure to confront China. And I wanted to start with western Pennsylvania.

I am not sure there has been a county—and I am speaking of Allegheny County, where Pittsburgh is—or a region of any State where there has been more of a target placed by the Chinese government than western Pennsylvania.

They managed to hack into a number of institutions, whether it was U.S. Steel or the Steelworkers or ALCOA or ATI or Westinghouse—the list goes on and on. A course of prosecution was commenced by then United States Attorney David Hickton and then carried forward.

The individual who took over for Dave Hickton, the Acting U.S. Attorney for western Pennsylvania, as of when this statement was made, November of 2017, said, quote: "Any company should be able to succeed based upon its ability to innovate and to compete without being sabotaged by cyber-hacking," unquote. So companies invest millions, if not tens of millions, in developing technology and innovation to give them a competitive edge, and then that can be ripped away from them and certainly have long-term impacts.

I guess I wanted to ask you to discuss some of those impacts in terms of what happens to a particular company on a number of fronts. Number one, what happens to their ability to be competitive or to be as competitive as they once were or hoped to be? What happens to their incentives to innovate? And, of course, what happens to their jobs? Can you comment on all of that?

Ms. DEMPSEY. Absolutely, Senator. And thank you for highlighting that concern, because that is a concern. Our members in Pennsylvania, those that you mentioned, but also across the country, look at that—you know, those were well-publicized cases—and it chills a lot of our manufacturers.

And going back to the conversation about small manufacturers, can you imagine these smaller manufacturers too and the impacts? The impacts are devastating. Companies are losing their trade secrets, their "secret sauce" of production or their special formulas. And some of that you can never get back again.

The concern is, it is not just general counsels' offices, it is discussions engineers are having about, how do you plan and incentivize that growth going forward? How do you deal with that? And then there is the jobs impact.

I think one of the things that we are looking at is how these cases are going in U.S. courts. This is not something that is legal in the U.S. legal system, right? We need to make sure that the U.S. legal system has the right remedies to stop this and to prevent this. And that is probably beyond my level of expertise, in terms of the types of actions that we need to take.

This is an issue that we are facing. You know, we face it domestically, we face it from other countries, but the concerns we have out of China are probably the most compelling that we are seeing here. And I think it is an issue that we need to stay on top of; we need to be making sure that we do everything in our own domestic legal system. We do not need a trade agreement to deal with some of this. We can take care of these domestic actions right here at home.

Senator CASEY. Anyone else in terms of the company-specific or sector-specific impacts? Does anyone want to comment on that?

Mr. Garfield?

Mr. GARFIELD. We talked about electronic payment systems. When you look at China UnionPay and how much China UnionPay has grown since China entered the WTO—and it is now, I think, the number-two electronic payment processor in the world while non-Chinese-based payment processors do not have access to the China market—it shows you the nonreciprocal nature and the impact it has, because those are jobs that were created there through China UnionPay but are not being created here because we do not have access to that market, or those companies do not have access to that market.

Senator CASEY. Ms. Lee?

Ms. LEE. Just a brief point. I want to agree with Ms. Dempsey's points about the impact on workers but also the importance for manufacturing, because we think of intellectual property rights as being for pharmaceuticals or for motion pictures or other things. But the counterfeit auto parts and other things directly impact American workers.

But there is a difference also when it happens in Allegheny County. We have certain tools, we can use the U.S. court system. When it happens in another country—which does happen when there is outsourcing, when American companies take their precious intellectual property and they bring it to another country where they do not have these kinds of protections—it is much more challenging. So I think it is worth noting that.

Senator CASEY. I want to highlight something that was submitted as testimony by the United Steelworkers. On page 2 of this testimony, they are talking about the auto sector and the consequences here. They are talking about a particular advanced, high-strength steel used in the auto industry. And I am quoting: "Companies in China have been unable to develop this technology and were under pressure from their domestic car companies to get it, so their government stole it for them. After the theft, one of the largest steel companies in China, Bohai steel, used the trade secrets to produce the specialized steel and export it to the United States in direct competition with U.S. steel," unquote.

So that is what we are talking about. And we are either going to confront this or we are just going to surrender to it. And I think for too long, we have been in a surrender mode.

Thanks, Mr. Chairman.

Senator CORNYN. Well, thank you, Senator Casey.

And thanks to each of you for helping us highlight this important topic. And I do think the slumbering giant of the United States government is starting to be awakened. And hopefully, we will be in a position to respond and to address these challenges in a way that protects our economy and protects our national security and protects our workforce, which is so important.

I want to express my gratitude to Senator Casey and his staff for working with my staff to put together this hearing.

And as a reminder, the deadline for filing any additional questions or statements for the hearing record will be 2 weeks from today.

So with that, the Senate Committee on Finance stands adjourned. Thank you very much.

Senator CASEY. Thanks, John.

[Whereupon, at 4:05 p.m., the hearing was concluded.]

APPENDIX

Additional Material Submitted for the Record

Prepared Statement of Christine Bliss, President, Coalition of Services Industries

Chairman Cornyn, Ranking Member Casey, members of the subcommittee, thank you for the opportunity to present the views of the Coalition of Services Industries (CSI) on market access issues in China.

For more than 3 decades, CSI has been the leading industry association devoted exclusively to promoting the international objectives of U.S. services companies and associations. Our members include the vast array of U.S. companies that provide services and digitally enabled services—domestically and internationally—including information and communication technology (ICT) services, financial services, express delivery and logistics, media and entertainment, and distribution and professional services.

The services sector is a bedrock of the U.S. economy. Services account for about 75 percent of U.S. private sector jobs, $730.6 billion in U.S. exports, and nearly 80 percent of U.S. gross domestic product (GDP). Services, including digitally enabled services, are a part of and enable every single sector of the U.S. economy. Moreover, ICT services drive U.S. productivity overall. Services allow all businesses to be more productive, reach more customers in more foreign markets, and ultimately, support a better livelihood through higher wages and greater opportunities.

CURRENT STATE OF PLAY IN CHINA

China was the second-largest services export market for U.S. services providers in 2017, with $56 billion in U.S. services exports, and a $38 billion services trade surplus.[1] From 1999 to 2007, the United States maintained a services trade surplus with China of around $1 billion. Since then, U.S. services exports have more than quadrupled, resulting in the growth of the U.S. services trade surplus with China from $1.3 billion in 2007 to $38 billion in 2017.[2] This growth over the last decade in U.S. services exports to China, along with the bilateral services trade surplus with China, exceeds the growth in U.S. services exports to other nations (54 percent), and exceeds the increase in the global U.S. services trade surplus (which has risen by 115 percent).[3] China has thus become one of the fastest growing markets for U.S. services.

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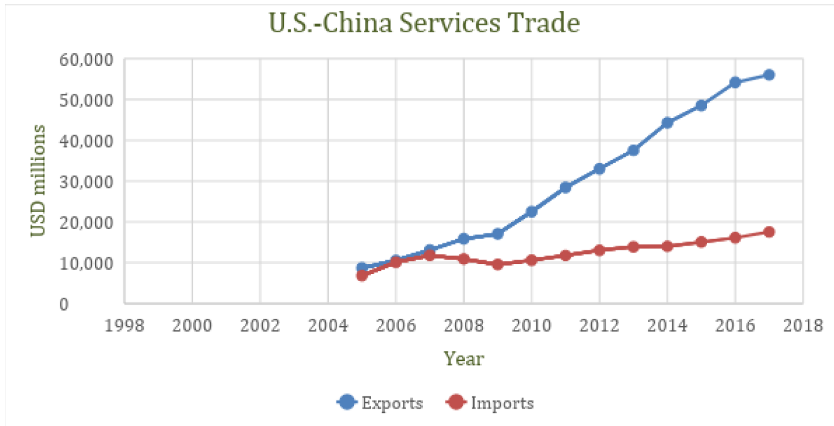
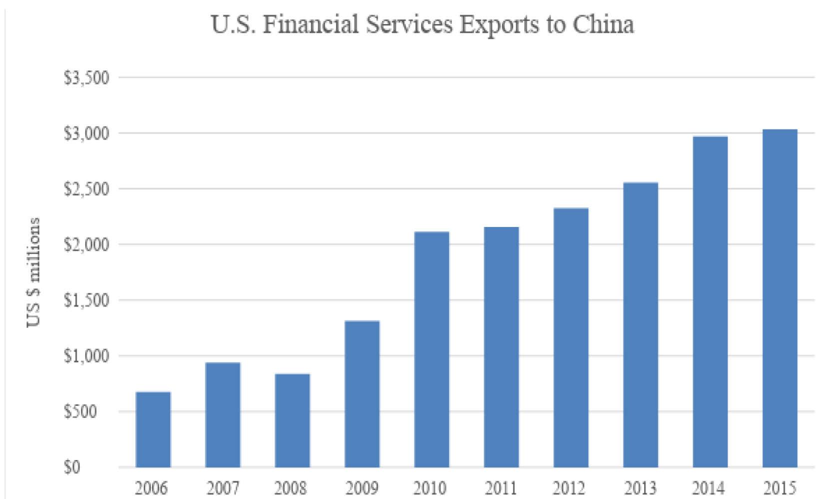
[1] "Table 3.2. U.S. International Trade in Services by Area and Country, Seasonally Adjusted Detail, China," Bureau of Economic Analysis, U.S. Department of Commerce, March 21, 2017, *https://www.bea.gov/itable/*.

[2] *Ibid.*

[3] *Ibid.*



The financial services sector has been an area of great strength for U.S. services providers. Over the last decade, the United States has increased its financial services exports to China by 347 percent, totaling over $3 billion in 2015.[4] This growth rate is the second highest among all U.S. trade partners and nearly triple the average global financial services export growth rate.[5]



Despite the growth of U.S. financial services exports and China's stated intent to provide greater services market access, significant market access barriers remain, including existing and proposed discriminatory regulations in areas such as restrictions on data flows, information technologies, equity cap limitations, licensing restrictions, and outright bans on foreign investment.

Thank you to the members of the Senate Committee on Finance—including Senators Cornyn, Scott, Heller, Crapo, Portman, Cassidy, Isakson, and Thune—among other Senators, for your leadership on these issues. Your September 2017 letter to the administration regarding trade and investment barriers that harm U.S. financial services institutions and their ability to grow the American economy out-

[4] "Table 2.3. U.S. Trade in Services, by Country or Affiliation and by Type of Service, China," Bureau of Economic Analysis, U.S. Department of Commerce, December 19, 2016, *https://www.bea.gov/itable/*.
[5] *Ibid.*

lined many of our issues. We appreciate your leadership on these and other trade issues.

China has long insisted that it is an open market with clear rules. Unfortunately, this position does not match reality. While China continues to increase its investments abroad and engage in more trade with its partners, U.S. firms have an increasingly difficult time competing on a fair playing field in China. U.S. firms have considerable experience that could prove beneficial to China as its economy develops further, but this requires that U.S. companies have non-discriminatory access to the Chinese market. China's current short-sighted approach means that China risks losing the significant benefits and expertise of U.S. services firms.

CHINA'S TREATMENT OF DATA AND TECHNOLOGY

The free flow of data across borders is critical in every business sector as it is necessary for businesses to operate globally in an efficient and secure manner. In addition to the free flow of data, businesses also need ICT services, platforms, and other infrastructure to provide their services, which are increasingly digitally enabled.

The free flow of data means that companies can integrate staff around the world, maintain their customer networks as well as their supply chains, and ultimately build their competitiveness. For instance, financial services companies rely on the ability to transfer data quickly and easily across the globe to provide better service to their clients at lower cost. This means that consumers can access their accounts from any location, whether they are performing a simple bank transfer or more complex transactions. Further, cross-border data flows increase access to capital for start-ups and allow small businesses, through digital marketplaces, to tap into foreign markets and receive payments from customers.

Over the last decade, China has taken wide-ranging steps to restrict data flows, including through requirements to localize data and servers in China. Because of the widespread use of and reliance on customer data by many services firms, these practices have significant impacts, including in insurance, banking, and cloud computing, among other areas.[6] These data-restrictive policies impede the ability of U.S. services firms to supply cross-border services and to make investments in China. The inability to operate cross-border, the loss of efficiency, the increase in costs, and other impediments reduce U.S. competitiveness. The Office of the U.S. Trade Representative (USTR) has recently raised concerns at the World Trade Organization (WTO) over China's recent restrictions on cross-border data services (including Virtual Private Networks or VPNs), and the types of companies able to offer those services. The restrictions impact the availability of services and suppliers for important business communication services in China. There have also been reports of China blocking VPNs used by foreign businesses in China.

Moreover, as noted in the letter to China's Cybersecurity Administration signed by a global coalition of industry associations, including CSI, China's Cyber Security Law (CSL), along with other current and proposed regulations, has the potential to create additional, discriminatory barriers and impose significant compliance burdens for suppliers of a wide number of services due to the CSL's broad and vaguely defined scope. Particularly concerning is China's proposed requirement that all Chinese personal data must be stored domestically. The CSL also potentially subjects U.S. companies to security reviews. This includes the proposed requirements to review companies' proprietary source code and allow the government to review and approve encryption measures. China is still developing implementing regulations 9 months after the law has gone into effect, creating a great deal of uncertainty around the obligations around different kinds of data. Specifically, measures regarding the cross-border transfer of data and the scope of Critical Information Infrastructure were written quite broadly and contain the strictest requirements around localized storage of data and cross-border transfer.

China restricts foreign firms from providing cloud services directly in China and imposes numerous discriminatory restrictions. In addition, new draft regulations, if implemented, combined with existing Chinese laws, would force U.S. cloud service providers to hand over operation and control of their business to a Chinese company in order to operate in China, and also transfer valuable U.S. intellectual property and use of their brand names. These proposed regulations are of concern both to

[6] Nigel Cory, "Cross-Border Data Flows: Where Are the Barriers, and What Do They Cost?", Information Technology and Innovation Foundation, May 1, 2017, *https://itif.org/publications/2017/05/01/cross-border-data-flows-where-are-barriers-and-what-do-they-cost.*

U.S. cloud service providers as well as the many services and other U.S. sectors that rely on cloud services to operate in China.

To address this, the United States should secure China's commitment that it will allow U.S. cloud service providers to obtain and hold all necessary licenses for the operation and provision of cloud services in China, including those related to software, hardware, facilities, and infrastructure; allow foreign investment in Chinese companies established to provide cloud services in China; and allow U.S. cloud service providers to sign contracts for the provision of cloud services in China and use their trademarks and brands to market their cloud services. China should also allow U.S. cloud service providers to procure telecommunication services (including bandwidth) for the provision of cloud services on the same terms available to Chinese companies.

China's regulation of cloud services flows from its decision to classify cloud services as a telecommunications service, which, based on China's rules, restricts foreign providers to a maximum 50-percent equity limit. A similar approach has been taken with other services not typically regulated as telecom services, such as content delivery networks and Internet platforms. China's approach is inconsistent with the global approach that does not regulate or restrict foreign participation in these types of services. China should loosen these policies to increase market access for U.S. providers of these and other types of communications services.

China has cited concerns over national security as the justification for many of these restrictions, but in September 2015 and June 2016, China committed to the United States that measures it has taken to enhance cybersecurity in commercial sectors would be non-discriminatory and would not impose nationality-based conditions or restrictions. These restrictions are in direct contradiction of commitments and commitments China has made to open up its market.

China imposes other severe restrictions in ICT services as well. It fails to provide non-discriminatory market access for a broad range of online services—requiring joint venture partners for online services and then failing to issue approvals for those joint ventures. It fails to allow U.S. companies to provide video and music services on a cross-border basis. And more broadly, China completely blocks a wide range of legitimate U.S. websites and services, as USTR has highlighted in its recent National Trade Estimate report.

INSURANCE MARKETS IN CHINA

U.S. access to China's insurance and retirement securities markets remains difficult because of restrictive Chinese measures. Foreign insurers have less than a 5-percent cumulative market share in what is the third-largest insurance and pensions market in the world.[7] Given the size and future growth of China's insurance markets, and the relatively small market share of foreign firms, the economic opportunity for foreign insurers, absent the discriminatory equity cap and prohibition on U.S. companies in the enterprise annuities sector (China's 401k), is exponential and would deliver significant commercial benefits to U.S. industry. Profits generated from overseas operations would help fund long-term infrastructure investments in the United States, create jobs, and support high-paying service jobs.

Current Chinese regulation places a 50-percent cap on foreign equity in life, health, and pension companies, a restriction that has been in place since China's accession to the WTO in 2001. Removing this equity cap has been a top priority for the U.S. financial services industry for over a decade. At the end of 2017, China announced it would allow 51-percent foreign ownership in Chinese life-insurance companies in 3 years and lift that restriction entirely in 5 years. This is a welcome development and strong signal of liberalization from China, though follow-through and implementation are of utmost importance to ensure the equity cap is lifted in an effective manner. Liberalization in the life insurance sector would benefit Chinese consumers who need greater access to insurance and more stable protection and investment options in light of China's recent market volatility.

China has made some progress in liberalizing the non-life insurance sector. In 2013, China removed all restrictions on foreign non-life insurers. In January 2017, China's State Council issued the "Circular on Several Measures to Expand the Opening-up and Actively Utilize Foreign Investment," which committed to lower

[7] "The 13th Five-Year Plan—China's Transformation and Integration With the World Economy," KPMG, October 2016, *https://assets.kpmg.com/content/dam/kpmg/cn/pdf/en/2016/10/13fyp-opportunities-analysis-for-chinese-and-foreign-businesses.pdf.*

entry restrictions on foreign investment in several services sectors, including insurance, banking, and securities.[8] But, further action is needed.

The elimination of the equity cap aligns well with China's domestic policy goals and economic reform agenda, which emphasizes the need to grow the services sector, deepen financial inclusion, and enhance the participation of foreign financial services firms in China. Liberalization in the life insurance sector would benefit Chinese consumers who need greater access to insurance and more stable protection and investment options in light of China's recent market volatility.

China has not yet authorized any U.S. investment in the enterprise annuities industry, which is China's 401(k) industry. In addition to equity restrictions in China, there is a 33 percent cap in the securities sector. There is also a recent proposal for new regulations to restrict domestic shareholding in foreign-invested insurance companies (both life and property casualty), which will diminish the value of existing investments. The United States should seek confirmation from China's insurance regulator that the existing "Foreign-Invested Measures" will continue to govern, with respect to foreign equity and all other issues involving insurers, with at least 25-percent foreign investment. It should also seek confirmation that the proposed regulations will not be applied retroactively to foreign-invested insurance companies.

China has made several commitments on insurance at the WTO. This includes allowing 100-percent foreign equity in property insurance and reinsurance, as well as prohibitions on creating conditions of ownership for existing foreign suppliers of insurance services that are more restrictive than they were on the date of China's accession to the WTO. Both commitments are formalized in the 2004 "Detailed Rules on the Measures for the Administration of Foreign-Invested Insurance Companies."

However, questions remain on how well these commitments have been followed. In short, explicit and implicit barriers in China's insurance sector mean that U.S. firms are unable to fully tap into this critical market.

BANKING AND SECURITIES BARRIERS

China has exercised great caution in opening its banking sector to the United States. In particular, China has imposed capital requirements and other rules that that have made it more difficult for foreign banks to establish and expand their market presence in China. It is then unsurprising that foreign banks' collective market share in 2013 was below 2 percent.[9]

U.S. banks, securities, and other bodies are unable to compete on an equal footing with domestic institutions. U.S. banks are subject to a 20 percent investment ceiling (for single foreign shareholders) and a 25-percent investment limit (for multiple foreign shareholders) in local Chinese banks. Further, once a foreign-funded business in the banking sector is established, it is limited in its activity for 2 years. Following this waiting period, a business can expand the scope of the business, assuming it has met certain conditions, which includes holding over $10 billion in total assets.[10] There are also other restrictive regulations, including stipulations that foreign banks in China must work through branches, as opposed to subsidiaries. These restrictions have legal and economic impacts.

Equity caps on foreign ownership of securities joint ventures have not been lifted in China since 2012, and remain at 49 percent, despite the commitment to "gradually raise" the equity caps from the 2016 Strategic and Economic Dialogue (S&ED).[11] China has announced it will allow foreign companies to hold 51 percent of domestic securities firms, up from 49 percent, with the plan for the 51-percent cap to be removed 3 years after the new limit takes effect. Again, a welcome development that requires proper implementation. Following through on this commit-

[8] "Circular on Several Measures to Expand the Opening-up and Actively Utilize Foreign Investment," State Council of China, January 17, 2017, *http://www.gov.cn/zhengce/content/2017-01/17/content_5160624.htm.*

[9] "Future Directions for Foreign Banks in China 2014," Ernst and Young, 2014, *http://www.ey.com/Publication/vwLUAssets/EY-foreign-bank-china-report-2014/$FILE/EY-foreign-bank-china-report-2014.pdf.*

[10] "2017 National Trade Estimate," China, Officer of the United States Trade Representative, Executive Office of the President, March 2017, *https://ustr.gov/about-us/policy-offices/press-office/reports-and-publications/2017/2017-national-trade-estimate,* 87–88.

[11] "2016 U.S.-China Strategic and Economic Dialogue Joint U.S.-China Fact Sheet—Economic Track," U.S. Department of Treasury, June 7, 2016, *https://www.treasury.gov/press-center/press-releases/Pages/jl0484.aspx.*

ment to ensure that a foreign firm can establish a wholly owned company in its market is a bedrock free market principle that the Unitexd States and a significant number of other countries committed themselves to many years ago. It is time for China to make the same positive step by allowing U.S. securities firms to establish wholly owned subsidiaries without subjecting them to additional requirements that would hamper those subsidiaries' ability to conduct business onshore on the same terms as domestic players.

China has also committed to expand opportunities for U.S. financial services firms to acquire settlement and underwriting licenses as part of the 2016 S&ED.[12] CSI's member companies look forward to working with the U.S. and Chinese governments to ensure proper and effective implementation of these licenses is underway.

ELECTRONIC PAYMENT SERVICES

In May 2017, opening China's domestic market for U.S. electronic payment services (EPS) suppliers via a bank card clearing institution (BCCI) licensing process was included in the 100 Day Action Plan between the United States and China. Several U.S. EPS suppliers filed their BCCI applications in 2017 and all are still pending review by the People's Bank of China (PBOC) at this time.

China has committed through its WTO obligations, and more recently under the 100 Day Action Plan, to ensure "full and prompt" market access for U.S. EPS suppliers. CSI urges this commitment to be upheld as soon as possible.

A PATH FORWARD THROUGH CONTINUED BILATERAL ENGAGEMENT

Despite the market access issues I've outlined, it is important to keep in mind that China represents a significant opportunity for U.S. services firms. China is the third largest destination for American goods and services.[13] In fact, U.S. exports to China supported 1.8 million new jobs and $165 billion in GDP in 2015.[14] One cannot underestimate the potential of the Chinese market—one-fifth of the world's population and almost 10 percent of global wealth is China.[15] China also holds the largest middle class in the world. In order to increase the services surplus with China, we recommend identifying incentives to open up new opportunities for U.S. firms. Any approach designed to further U.S. interests ought to recognize that the Chinese market has much to offer for American companies and their employees.

CSI supports efforts to constructively engage with China because it is critical for the United States to address the current and growing trade and investment challenges facing U.S. services providers operating in China. We believe that a measured and holistic approach in engaging with China and avoiding harm to U.S. businesses, workers and consumers is of the utmost importance. Close cooperation with our international partners is also an essential element for success.

CSI and its members stand ready to work with you in crafting a comprehensive and transparent approach to ensure that the full spectrum of barriers to U.S. services providers operating in China are addressed in a manner that demands action from China and minimizes the real threat of reciprocal punitive measures. CSI believes that a carefully calibrated approach with robust input from industry will facilitate the most positive outcome.

Thank you for your time. I look forward to answering your questions.

PREPARED STATEMENT OF HON. ROBERT P. CASEY, JR., A U.S. SENATOR FROM PENNSYLVANIA

From steel and tires to high-tech, industries across Pennsylvania and the country face significant challenges when it comes to China. Be it through forced technology transfer, joint ventures, theft of intellectual property, or straight-up barriers to entry, U.S. firms and manufacturers have been fighting for decades to get the same

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[12] *Ibid.*

[13] Oxford Economics, "Understanding the U.S.-China Trade Relationship," U.S. China Business Council, January 2017, *https://www.uschina.org/sites/default/files/Oxford%20Economics%20US%20Jobs%20and%20China%20Trade%20Report.pdf,* 4.

[14] *Ibid.,* 4.

[15] Richard Kersley and Markus Siterli, "Global Wealth in 2015: Underlying Trends Remain Positive," Credit Suisse, October 2015, *https://www.credit-suisse.com/corporate/en/research/research-institute/news-and-videos/articles/news-and-expertise/2015/10/en/global-wealth-in-2015-underlying-trends-remain-positive.html.*

treatment for American-made products in China, as Chinese exports see in the United States.

When Ambassador Lighthizer came before the committee a few weeks ago, he stated "the costs of globalization are falling most heavily on workers." I could not agree more. Studies by EPI and MIT economist David Autor, and his coauthors David Dorn and Gordon Hanson lend data to that assertion. According to the MIT study, roughly 40 percent of the decline in U.S. manufacturing between 2000 and 2007 was due to a surge in imports from China.

That has been the experience of Pennsylvania. It started to present itself in the 1980s. There was a 4- or 5-year period in the early 1980s when tens of thousands of steel worker jobs in southwestern Pennsylvania were lost. And it just continued from there. And I have to say that I don't think in the last generation that either party has done nearly enough. Neither party has had, in my judgment—and this applies to multiple administrations and multiple Congresses—an answer for these workers.

U.S. industries have been under a sustained attack from China for the past decade—our steel, aluminum, manufacturing. And now China has given us the playbook for their next line of attack: robotics, rail equipment, and advanced medical products, to name a few. Pennsylvania knows all too well what may be in store for cities across the country if we don't address the systemic threat that China presents. After the collapse of the steel industry Pittsburgh fought its way back, reinventing itself with the help of our civic leaders, foundations and universities to be on the cutting edge in robotics and advance tech. China, in its 2025 plan, is coming after that too.

I am glad we're having this hearing today, and I hope it begins a much-needed conversation on the type of comprehensive strategy we need to address the threat posed by China. If you don't have a strategy that undergirds the development of an answer, then you won't get the result I think we can all agree on: ensuring U.S. workers have the skills they need to compete, insulating our communities from economic shock and preventing China from stealing our future.

Part of that is making sure our communities have access to immediate economic assistance when a large job loss or localized recession occurs—which can happen for any number of reasons outside of trade. The goal is always to prevent economic shocks from happening, but if they do occur, we must respond, and respond quickly. I've put forward a proposal on that and would welcome your insights at a future date.

China has made no secret about its strategy to push the rules to their limit, and when advantageous, break them outright. They know that by the time a trade case reaches conclusion the damage to an industry has been done. The United States needs a sustained and coordinated strategy to address the threat posed by China. And the United States should work with our allies to execute it. This is not a problem unique to the United States, there is no need to treat it as such.

I think we can all agree that something must be done to address the barriers China puts up that prevent our companies from competing on a level playing field.

I am glad to work with Senator Cornyn on these critical issues. And I appreciate our witnesses for sharing their expertise and experience with the committee.

PREPARED STATEMENT OF HON. JOHN CORNYN, A U.S. SENATOR FROM TEXAS

Good afternoon. Thank you for being here today.

The focus of today's hearing is on an important international market—one that happens to be the world's second-largest economy.

This market—I'm talking about China, of course—is also the United States' largest merchandise trading partner and is the third-largest export market for U.S. goods abroad.

While the legitimate flow of goods and services between United States and this nation have increased over the years, the statistics alone do not tell the entire story.

We also must consider the national security context here. Within just 7 years, China will pose the *greatest* threat to U.S. national security of any nation, according to General Joe Dunford, Chairman of the Joint Chiefs of Staff.

As China's population grows and its economy continues to modernize, the Chinese market will continue to emerge as an attractive one for U.S. businesses seeking the opportunity to serve the Chinese consumer, in all sectors.

But, unfortunately, while Chinese companies enjoy largely unfettered access to the U.S. market and an economy that is open to investment, U.S. companies are not afforded with reciprocity in this regard.

In order to paint a picture of the persisting problem, we must first review the historical context.

In the 1980s, China first sought entry into the rules based global trading system known as the World Trade Organization (WTO).

After years of deliberations and negotiations, an agreement was reached in 2001.

This agreement allowed for China's accession to the World Trade Organization if it agreed to comply with a number of free-market principles: tariff reductions, equal footing for foreign businesses, and the removal of implicit and explicit barriers to trade.

Moreover, China would have to adhere to global principles under the TRIPS agreement to protect and enforce intellectual property rights.

Fast forward to 2018, 17 years later, and China has still not lived up to its WTO obligations.

China's authoritarian regime, its One Belt, One Road Initiative, and its Made in China 2025 plan are part of a comprehensive agenda to promote state-driven industrial policies that distort and disadvantage U.S. firms who are simply seeking free market competition with Chinese companies.

U.S. companies seeking to do business in China often encounter a protectionist system; one that employs predatory tactics and promotes domestic, subsidized industries over foreign competitors.

The U.S. Trade Representative's 2017 Report on China's WTO Compliance explains that today's situation in China is even worse than it was 5 years ago, as the state's grip on the economy continues to increase.

Even more alarming is the fact that U.S. technology companies often report of China's blatant attempts to steal sensitive and proprietary intellectual property.

In many cases, China has used trade as a weapon, coercing U.S. companies to enter into joint ventures and other business arrangements which require a company to hand over key technology and know-how, the so-called "secret sauce," simply in order to gain market access.

This practice has already begun to erode America's technological advantage and undermine our defense industrial base.

That's why I have introduced legislation, along with Senator Feinstein, called the Foreign Investment Risk Review Modernization Act (FIRRMA), to combat this epidemic and modernize the Committee on Foreign Investment in the United States (CFIUS).

It is also my understanding that President Trump and his administration are currently considering potential temporary actions under existing authority to ensure investment reciprocity and protect U.S. national security, in part because CFIUS lacks adequate authority under its current statute.

China's restrictive market is highly concerning, and multiple administrations have attempted to engage China's leaders on their trade practices.

China will even send its students to American colleges and universities for STEM-related degrees, only to have them return to China and further advance their goals.

Unfortunately, many rounds of high-level diplomatic talks have generally yielded little progress—often resulting in commitments made with zero action.

Take the latest Comprehensive Economic Dialogue for example. The "100-day plan on trade" yielded commitments from China—most of which have yet to be followed through on.

Discussions may continue in the future, but one thing is clear: China's market access reforms are too slow, and barriers still exist.

Reciprocal treatment for U.S. companies should not be too much to ask.

It is my hope that today's hearing will paint a clear picture of the problems that persist with access to China's market, and that significant reforms will follow.

PREPARED STATEMENT OF LINDA MENGHETTI DEMPSEY, VICE PRESIDENT, INTERNATIONAL ECONOMIC AFFAIRS, NATIONAL ASSOCIATION OF MANUFACTURERS

Chairman Cornyn, Ranking Member Casey, and members of the subcommittee, thank you for the opportunity to testify on manufacturers' views on market access challenges in China.

The National Association of Manufacturers (NAM) is the largest manufacturing association in the United States, representing more than 14,000 manufacturers small and large in every industrial sector and in all 50 States. Manufacturing employs nearly 12.6 million women and men across the country, contributing $2.25 trillion to the U.S. economy annually. The NAM is committed to achieving a policy agenda that helps manufacturers grow and create jobs. Manufacturers very much appreciate your interest in and support of the manufacturing economy.

U.S.-China commercial relations are a top priority for manufacturers in the United States, given both the challenges and opportunities this relationship presents. I appreciate the opportunity to testify today to discuss the market access challenges that manufacturers face in China.

I. OVERVIEW

It's fair to say that our Nation's trading relationship with China is complicated.

On the one hand, there are few places in the world where manufacturers sell more or have increased sales. Indeed, manufacturers in the United States export more goods to China than any other market outside of our NAFTA partners in North America—to the tune of nearly $96 billion in 2017—which, in turn, supports hundreds of thousands of U.S. manufacturing jobs here at home. Exports of "made in the USA" manufactured goods to China have grown more than $76 billion since 2002, more than to any other country, except Canada and Mexico. That's especially important considering that more than half of American manufacturing workers depend on exports for their paychecks.

On the other hand, there are few places in the world where trade has proven more challenging for American manufacturing. From unfair subsidies, to intellectual property (IP) theft and market-distorting policies that shield Chinese companies, manufacturers and workers in the United States face an unfair playing field that harms U.S. manufacturing and holds us back.

There is no doubt that we need to address these challenges. China simply must follow the same rules as everyone else. It simply must be held accountable when it cheats. On this, nearly all parties agree.

The question is how best to go about doing so.

There has been a lot of debate about this for a long time. We at the NAM believe it's time to finally change the contours of that debate. We think a comprehensive strategy will be needed if our country is to truly achieve the best outcomes for American workers and American enterprise. In our view, that means pursuing a modern, innovative and comprehensive bilateral trade agreement that wholly restructures our economic relationship with China. This is at once both a radical idea and, in our estimation, the most pragmatic and effective way forward.

Targeted actions can provide some relief in the short term to some manufacturing industries, they can harm others, and there will be a lot of arguments about their merits in-between. So, at the end of the day, we think it's best to address the underlying systemic issues that have given rise to the imbalances in the U.S.-China relationship in the first place. That's what I look forward to discussing with you further a little later in my testimony.

But first, it's important to understand the nature of our trading relationship with China.

II. THE U.S.-CHINA COMMERCIAL RELATIONSHIP

The U.S.-China commercial relationship has grown substantially over the past several decades following China's accession to the World Trade Organization (WTO) in 2001. China is the United States' largest goods trading partner, the largest source of U.S.-manufactured goods imports, and the third-largest export market for U.S.-manufactured goods:

- U.S.-manufactured goods exports to China grew from $19 billion to nearly $97 billion between 2002 and 2017.
- U.S. imports of manufactured goods from China have grown even more from $122 billion in 2002 to nearly $496 billion in 2017.

In joining the WTO, China agreed to abide by the WTO agreements that were largely created in the Uruguay Round talks that ended in 1994, as well as some specific requirements in its protocol of accession. In subsequent years, China has also agreed to new, targeted agreements, including the Trade Facilitation Agreement (TFA) to cut red tape at the border and regularize customs processing and the 2015 expansion of the Information Technology Agreement cutting tariffs on information and communications technology products. Unlike some of the original WTO members, most notably Brazil and India, China was brought into the WTO on much stricter tariff terms, agreeing to cut tariffs to an average rate of 10 percent without any flexibility to raise tariffs (as Brazil, India, and other countries have retained) and changing thousands of regulations, laws, and guidelines. China's protocol of accession also outlined many other requirements specific to China, including some requirements to address distortive activities by state-owned enterprises (SOEs) and unfair government involvement in commercial transactions. While China implemented many of these provisions fully, there are gaps in China's implementation and issues that were not fully covered by the WTO requirements.

As a result of the implementation of many of these provisions, U.S. manufacturers have increased exports to record levels in 2017, supporting hundreds of thousands of American manufacturing workers. China is the single largest foreign purchaser of U.S.-manufactured goods outside of North America, and U.S.-manufactured goods exports account for approximately 11 percent of all of China's imports. Among the U.S. manufacturing sectors that have seen the biggest growth are:

- Transportation equipment, including aerospace products and parts; motor vehicles, auto parts, and related products; railroad rolling stock; and ships and boats; overall, U.S. transportation equipment exports increased by nearly $26 billion between 2002 and 2017;
- Chemical products, which have increased by nearly $12 billion since 2002;
- Computer and electronic products, including semiconductors, measuring and medical control equipment, and computer and communications equipment; overall, U.S. computer and electronic product equipment exports to China increased by nearly $12 billion between 2002 and 2017; and
- Machinery, such as industrial machines, engines, and power transmission equipment; overall, U.S. machinery exports increased by more than $6 billion between 2002 and 2017.

Manufacturers of agricultural equipment, from tractors and seeds to farming implements, grain storage structures, and fertilizers, have also grown as a result of increased sales to the U.S. agricultural sector, which has expanded U.S. product through strong export growth to the Chinese market in numerous areas. Indeed, U.S. agricultural exports to China have grown to nearly $18 billion in 2017, from a base of less than $1.5 billion in 2002. China is the largest single country purchaser of U.S. farm products.

The U.S.-China investment relationship is also substantial, totaling more than $68 billion in 2016. U.S. manufacturing investment in China equaled $47 billion in 2016, up from nearly $6 billion in 2002, and equal to just 7 percent of worldwide U.S. foreign direct investment in manufacturing ($667 billion in 2016). Sales by U.S. manufacturing affiliates in China equaled $283 billion in 2015, compared to only $9 billion in U.S. exports by those same affiliates. Chinese foreign direct investment in U.S. manufacturing totaled nearly $21 billion that same year, up from just $215 million in 2002.

While there have been significant improvements in the U.S.-China commercial relationship, China also poses a major challenge for manufacturers small and large, imposing a range of market-distorting and trade-limiting barriers that impact manufacturers in the United States. To address some of these issues, the United States has brought more than 20 WTO challenges against China, several of which have successfully resolved issues directly covered by WTO rules, such as relating to export restraints, subsidies, and automotive parts. In other areas, as discussed below, the WTO rules do not explicitly or sufficiently discipline practices, and additional work is needed to address these gaps in coverage that allow unfair barriers to continue.

III. KEY MARKET ACCESS CONCERNS IN CHINA AND RELATED ISSUES

The Chinese market remains one of the most frequently cited trouble spots for manufacturers in the United States, and challenges continue to rise. Among the market-distorting and damaging industrial policies and other measures negatively impacting manufacturers in the United States include the following:

- **Localization Policies:** Manufacturers in the United States have seen in recent years a resurgence of discriminatory policies, particularly those that have a differential impact on products and technologies produced by domestic and foreign companies, even if they do not explicitly treat domestic and foreign companies differently. These policies are often as problematic for foreign companies as explicit discrimination and should be eliminated. Particularly concerning are localization policies related to production or technology that mandate local testing and certification requirements for products in the information, communications and telecommunications, (ICT) and medical sectors as well as policies requiring companies to store China-generated data on local servers and prohibiting their transfer overseas.

  One policy area of significant concern is China's "Made in China 2025," an ambitious 10-year plan designed to upgrade China's manufacturing economy. The plan sets specific targets for domestic manufacturing (40 percent domestic content of core components and materials by 2020 and 70 percent by 2025), focusing on 10 priority sectors, such as information technology, new energy vehicles, agricultural equipment, and robotics. While the plan's broad objective of promoting smart manufacturing policies in China is common to many countries, the specific implementation and localization targets of the plan raise significant concerns for manufacturers in the United States. In particular, the plan's focus on building globally competitive Chinese companies through specific government policies and financial support raise concerns that the plan's effect will be to benefit Chinese manufacturers over foreign ones, raising significant questions about the consistency of policies with China's WTO commitments.

  Examples of other policies with localization elements include:

  - Cybersecurity policies that pressure companies to localize technology;
  - Data flow restrictions/Internet controls; and
  - Expedited product approvals for innovative medical device products.

- **IP Rights:** While China has increasingly recognized the value of innovation and IP rights and enforcement, with some steps being taken to upgrade IP laws and regulations, promote IP awareness, and tackle IP enforcement, much more work is needed in this core area important to manufacturers of all sizes and types. Among the areas of most concern that impede U.S. market access and fair competition in the Chinese market are:

  - High levels of counterfeiting, piracy, and trade secret theft, both physically and online;
  - Structural barriers to strong IP enforcement, such as value thresholds that effectively preclude criminal enforcement;
  - Policies designed to push companies to localize R&D and technology and promote the development of Chinese IP-intensive industries;
  - Policy developments in areas such as competition, standards, and product price controls that undercut U.S.-generated IP;
  - Cybertheft that has targeted several U.S. companies; and
  - Weak enforcement.

- **Standards, Technical Regulations, and Conformity Assessment Procedures:** Manufacturers in the United States continue to experience a variety of challenges related to standards and technical regulations in China, ranging from inadequate channels for participation in standard-setting processes, treatment of IP in standards setting, and Chinese efforts to promote standards, both at home and abroad, that do not harmonize with international standards. All of these regulations and requirements can add significantly to the cost of manufacturing products for export to China and limit the ability of U.S.-manufactured products to compete fairly in China. Among the areas where manufacturers in the United States are facing challenges include electric vehicles, medical equipment, and hazardous substances in electric and electronic products.

- **Subsidies and Other Measures:** Manufacturers in the United States continue to be concerned about a range of other Chinese Government actions that have led to market distortions, such as subsidies and state-owned enterprise (SOE) interventions in the market that have built up massive overcapacity. Steel and aluminum are front and center, but overcapacity is also a problem in industries such as chemicals, fertilizer, concrete, agricultural processing, and semiconductors. More broadly, Chinese Government agencies continue to use a variety of export policies, particularly export restraints and subsidies, to promote or restrict the growth and export of priority products and sectors to provide an advantage to Chinese producers reliant on various metals and raw materials. While the United States has brought and won WTO cases on some of these policies, others continue to pop up. These actions both undermine U.S. market access in China and distort competition in the United States and third-country markets, all to the disadvantage of manufacturers and their workers in the United States.
- **Investment Restrictions:** Manufacturers also face investment caps in key manufacturing sectors, such as agricultural processing, automotive, and telecommunications, forcing them to form joint ventures with domestic companies under the Catalogue Guiding Foreign Investment. Problematically, this allows government and company stakeholders leverage to seek concessions from foreign companies, including investment commitments, local sourcing, and access to capital and technology, in exchange for investment approval. In a series of changes in late 2016, China approved some revisions to its main foreign investment laws, which, while generally welcome, did not fully address remaining concerns from manufacturers in the United States about continued investment caps in critical sectors, efforts to build a national security review system for foreign investment and broader regulatory concerns that impact foreign-invested enterprises. Given the role of investment overseas in helping manufacturers reach foreign customers and participate in foreign resource and infrastructure projections, these rules negatively impact market access for manufacturers in the United States.
- **SOEs:** During China's WTO accession, China made a number of commitments related to the activities of SOEs and state-invested enterprises (SIEs), including agreeing that those firms would make purchases and sales based solely on commercial considerations and not be influenced by the government. Despite that commitment, the Chinese Government has continued to play a strong hand in SOE and SIE management and decision-making and pressure these firms to act in ways to support government priorities. Efforts to strengthen SOEs have only accelerated under President Xi Jinping, with plans that have generally focused on strengthening, not reforming, SOEs with only small changes, such as promoting mixed-ownership structures, addressing corruption, and reforming executive board operations.
- **Import Regulation:** From tariffs and customs barriers to differential import procedures, manufacturers in the United States face a number of border barriers in China that impede U.S. exports and limit market access:
    - While China reduced tariffs as part of its WTO implementation on a broad range of manufacturing products, the process did not eliminate all of China's burdensome tariffs, including some high tariff rates in key manufacturing sectors.
    - While China ratified the WTO's TFA in September 2015, it will not implement its Schedule B commitments, including implementation of a "single window" system for customs clearance, publication of average customs release times, or customs cooperation, until 2020. As a result, U.S.-manufactured goods face higher costs and red tape as well as delays in exporting to China.
    - Inconsistencies in customs-related regulations and enforcement create unnecessary challenges for U.S. exporters. Particularly concerning are different customs clearance proceedings and regulations between dif-

ferent ports, different agencies, and even different customs agents as they seek to get products cleared, including customs classification, customs valuation procedures, and clearance requirements.

 - ○ In addition, China's current import clearance regime unnecessarily complicates trade and restricts low-value shipments (including shipments of manufactured goods sent through e-commerce channels) from benefiting from expedited shipments treatment, as envisioned in the TFA. Although China's complex import clearance procedures can clear products through one of three channels (including an e-commerce category), burdensome requirements to utilize the e-commerce channel prevent many products from benefiting from this option.
 - ○ Manufacturers in the United States are seeing the misuse of Chinese trade laws to retaliate against U.S. industries and limit U.S. imports unfairly.
 - ○ Import bans and other regulatory limits have also undermined U.S. access to China's market, including bans on remanufactured products and units and a July 2018 ban on 24 types of materials, including scrap paper and plastic.

- **Transparency and the Rule of Law:** Despite Chinese commitments during its accession to a range of reforms related to the rule of law, including regulatory transparency and consistent implementation of laws and regulations, China continues to struggle with many of these areas in ways that have a significant negative impact on the ability of manufacturers in the United States to navigate China's regulatory framework and participate on a level playing field in the Chinese market. Among the most concerning areas are:
  - ○ A lack of full regulatory transparency regarding laws and regulations, where new rules are implemented with limited notice and input from the private sector; and
  - ○ A lack of fair and open processes regarding regulatory approvals.

IV. IMPROVING THE U.S.-CHINA COMMERCIAL RELATIONSHIP

The U.S.-China commercial relationship holds potential to spur the growth and expansion of manufacturing here at home, but the trading relationship must be fair and open and must tackle persistent barriers.

On this point, there is a lot of work left undone. Of particular importance for manufacturers is work to ensure full enforcement of existing international and domestic trade rules, including bringing additional WTO cases; engagement and coordinated activities with our trading partners and through regional and global channels, such as the Asia-Pacific Economic Cooperation Forum and G20; and the creation of new rules to ensure a free and fair competitive landscape for manufacturers in the United States.

While targeted actions can provide some relief in the short term to some manufacturing industries, they can harm others, and there will be a lot of arguments about their merits in-between. This is especially true of tariffs, which, as NAM president and CEO Jay Timmons recently put it, can also create new challenges in the form of significant added costs or provoke China to take further destructive actions. So, at the end of the day, we think it's best to address the underlying systemic issues that have given rise to the imbalances in the U.S.-China relationship in the first place.

As Timmons explained in a letter to the President on January 8th, to address these issues comprehensively and truly level the playing field for the long term, the United States should "be pursuing a truly modern, innovative and comprehensive bilateral trade agreement with China that wholly restructures our economic relationship." The letter explained that "[t]o be successful, this free and fair agreement must:

- "Eliminate barriers that unfairly block American companies and America's manufacturing exports from full and fair access to the Chinese market;
- "Raise standards in China and create new rules to prevent the wide range of market-distorting practices that violate free markets and fair competition and hurt American businesses and workers; and

- "Create clear mechanisms to mandate strong and binding enforcement of the agreement, providing specific channels for government and industry alike to address cheating and violations."

A bilateral U.S.-China trade agreement would need to build on, but go far past, previous agreements by adding priority issues relevant to China, from industrial policy, state-favored industries and new transparency and IP disciplines to rules that reflect other changes in the global economy since the WTO agreements were negotiated, starting with digital trade and cross-border data flows. In particular, such an agreement would need to address those areas where unfair, discriminatory and harmful Chinese policies and practices are not actionable at the WTO.

We believe this approach, while in some sense a radical idea, presents the best way to restructure the U.S.-China economic relationship so that it works for manufacturers and all Americans.

V. CONCLUSION

Chairman Cornyn, Ranking Member Casey, and members of the subcommittee, thank you for your work on global trade and competitiveness issues and for holding this hearing.

PREPARED STATEMENT OF DEAN GARFIELD, PRESIDENT AND CEO, INFORMATION TECHNOLOGY INDUSTRY COUNCIL

INTRODUCTION

Chairman Cornyn, Ranking Member Casey, and members of the subcommittee, thank you for inviting me to testify this afternoon.

The Information Technology Industry Council (IT) represents over 60 of the world's leading information and communications technology (ICT) companies. We are the global voice of the tech sector and the premier advocate and thought leader in the United States and around the world for the ICT industry. ITI's member companies are comprised of leading technology and innovation companies from all corners of the ICT sector, including hardware, software, digital services, semiconductor, network equipment, Internet companies, and companies using technology to fundamentally evolve their businesses. Trade issues are critical to our members, and China is always a subject of much concern and interest.

Today's hearing is particularly timely, as the U.S.-China relationship stands at a crossroads. If we continue down our current path of tolerating China's blatant disregard for international norms governing free trade and market access, we will continue to lose ground on both technological and economic fronts. Yet, altering course poses a unique challenge of navigating uncharted waters. The U.S.-China relationship is as complex as it is important. The relationship has always been—and likely will continue to be—one of *both* competition and cooperation. We need to approach managing difficulties in the bilateral trade relationship with the nuance and deliberation they deserve, recognizing that both action and inaction will have consequences for years to come, in positive and negative respects.

The tech sector has been at the forefront of the competitive and cooperative balance with China for decades. While competition and collaboration between our companies can and should be a driver of innovation and growth, it is clear that China does not compete fairly. The Chinese have run a robust effort to rewrite the rules of the game in their favor—and this needs to change. Foreign companies must be able to compete on even footing with domestic companies in China and around the globe.

While we must address China's problematic policies and practices, that is only half of the equation. We also need to rebalance our approach to strengthening the U.S. economy and our own capacity for innovation. To that end, we must invest in our own people, our own research and development, and foster emerging technologies here in the United States.

Regardless of whether China plays by the rules or not, it will continue to develop significant capacity for technological development, innovation, and growth. The United States must be prepared to compete.

In my testimony, I will outline some of the key market access problems that our companies face as well as what we can do about it, why the Chinese market is so important, and how we can ensure that the United States continues to foster an environment that gives the best and brightest individuals the necessary tools to develop tomorrow's most innovative technology.

KEY PROBLEMS FOREIGN TECH COMPANIES FACE IN THE CHINESE MARKET

Our companies face real and persistent challenges in the Chinese market, including data localization requirements, cloud services restrictions, and intrusive and undefined security review regimes that may lead to exposure of source code and intellectual property. Over the last decade, China has made a concerted effort not only to address legitimate cybersecurity and privacy concerns but also to foster a protected space for domestic companies to gain an unfair market advantage. As the Office of the United States Trade Representative (USTR) laid out in its comprehensive section 301 investigation findings report, China has created a tapestry of laws, regulations, standards, and practices that collectively advantage Chinese companies and create conditions for direct and indirect tech transfer.

Despite this clearly strategic approach to boost Chinese innovation and indigenous technology, the Chinese government is not a monolith. Infighting, discord, and pressure from Chinese leadership for agencies to issue regulations and demonstrate enforcement has added another layer of uncertainty and unpredictability to the Chinese market. Following passage of China's 2016 Cybersecurity Law, the tech sector has seen an unprecedented onslaught of implementing regulations, notices, measures, and standards drafted by numerous agencies within the Chinese bureaucracy, often contradicting one another. For example, the information technology standards body known as TC 260 released 110 standards for comment between November 2016 and September 2017 alone, accounting for nearly half of all standards it has ever released for comment. Implementing regulations and standards that the Chinese government promised would clarify compliance questions often seem hastily drafted by individuals without relevant expertise, leading to more questions than answers. While the Chinese government has addressed certain concerns through solicitation of comment, often industry finds that issues go unaddressed or appear again in other regulations or implementing guidelines—leaving us to play an endless game of "whack-a-mole." These hastily enacted regulations also allow enforcement agencies to both interpret obligations unevenly and, potentially, target foreign companies.

BROAD AND AMBIGUOUS SECURITY REVIEW REGIMES

While the Chinese Government has for the most part been careful not to explicitly outline requirements for transfers of technology, source code, or IP, the ambiguity and uncertainty surrounding China's numerous "security review regimes" create conditions ripe for coercion of companies to expose these valuable trade secrets. The Cybersecurity Law requires that companies subject themselves to intrusive security reviews for products and infrastructure to qualify as "secure and controllable." While the meaning of this term is ambiguous, the provision seems to favor domestic companies and products as inherently more secure. This provision appears to be a thinly-veiled attempt to encourage consumers to "buy domestic." Specifically, *the Cross-Border Data Transfer Measures* outline highly intrusive procedures, including background investigations of network suppliers and inspections of corporate offices. Given that President Xi Jinping and other officials have publicly stated an official preference for Chinese technologies, industry remains concerned that this policy empowers agencies to focus disproportionate regulatory attention on foreign technology products and services, relying on a broad justification of "public interest" concerns rather than true national security.

IMPLICIT AND EXPLICIT TECHNOLOGY TRANSFER REQUIREMENTS

Intellectual property and source code are the lifeblood of American companies, and they make a concerted effort to safeguard these secrets. In addition to ambiguous security review regimes, Chinese requirements outlined in various laws and regulations—including those that require firms to locate production or facilities in China and establish a joint venture (JV) with a Chinese partner in order to operate in China—can put this invaluable information at risk. Disclosure of sensitive information can be forced through a contract (*e.g.,* JV, partnership), direct pressure from local or central governments, or governmental review or certification mechanisms. While the term "joint venture" has come to carry a negative connotation, JVs can serve as an asset in China and other markets—allowing foreign companies to operate under otherwise rigid investment restrictions as well as leverage local expertise, support, and connections. There is nothing inherently wrong with JVs and partnerships if they are voluntary. They become problematic, however, when they are forced and regulations stipulate that the Chinese partner must maintain majority control of the JV or required product licenses can only be obtained by a Chinese company, thereby necessitating a partnership.[1]

China has made its technology transfer objective clear through its national strategy to promote indigenous innovation, *Made in China 2025*. The strategy explicitly promotes the transfer of technology as a means of advancing technological capability, competitiveness, and strategic emerging industries. Further, it outlines a wide-ranging effort to employ funding and the investment of significant government resources in support of key industries. This top-down direction fosters an environment that actively pursues technology transfer as a prerequisite for doing business in China. These factors create real risks for companies and reduce the competitiveness of American firms as well as their profitability.

RESTRICTIONS ON FOREIGN CLOUD SERVICE PROVIDERS

China's restrictions on U.S. cloud services providers (CSPs) exemplify the lack of reciprocity in the U.S.-China trade relationship. Foreign companies face written and unwritten requirements that could force U.S. CSPs to transfer valuable intellectual property, surrender use of their brand names, and hand over operation and control of their businesses to Chinese companies in order to do business in the Chinese market. Chinese cloud service providers operating in the United States are subject to *none* of these market access barriers.

Draft and current Chinese regulations—including Regulating Business Operation in Cloud Services Market (2016) and Cleaning Up and Regulating the Internet Access Service Market (2017), would force U.S. cloud computing providers to offer their services through Chinese partners in the market. These measures, together with existing licensing and foreign direct investment restrictions on U.S. CSPs operating in China under the Classification Catalogue of Telecommunications Services (2015), would require U.S. CSPs to turn over essentially all ownership and operations to a Chinese company, forcing the transfer of incredibly valuable intellectual property and know-how to China.

DATA LOCALIZATION REQUIREMENTS

Despite numerous efforts by the U.S. tech sector to revise problematic Chinese regulations and explain that localization does not equate to security, China continues to publish new and troubling laws, regulations, and standards that restrict data flows. Cross-border data flows are essential to digital trade. In 2016, over 53 percent of total U.S. service exports relied on cross-border data flows.[2] China's Cybersecurity Law and other regulations seriously harm many U.S. exporters by restricting cross-border data flows and requiring firms to store and process data in China. Draft regulations—including the Cross-Border Data Transfer Measures and the Critical Information Infrastructure Protection Regulation (both implementing regulations of the Cybersecurity Law) contain numerous provisions that will force companies to localize certain data in China and create undue and expensive impediments to transferring business information out of China in a timely manner.

The Chinese Government's focus on data localization reflects the premium placed on control of content and data as a tool to ensure the stability of the Chinese Government. Though these policies will also have a negative impact on Chinese multinational companies, thus far the Chinese Government has not heeded these concerns.

PROLIFERATION OF "CHINA-UNIQUE" STANDARDS

Standards offer yet another avenue for China to expand its regulatory and legal objectives—with even greater international consequences. Since the early 2000s, China has sought to establish a more robust and coordinated national technical standards regime, increase China's participation in international standards setting bodies, and increase the number of Chinese standards adopted by those bodies. This has led to notable improvements in China's standards setting and transparency, but also caused significant problems for U.S. tech companies.

[1] *See* "Law of the People's Republic of China on Chinese-Foreign Joint Ventures; Provisions on Administration of Foreign-Invested Telecommunications Enterprises; The People's Republic of China Foreign Investment Catalogue 2017."

[2] *https://www.brookings.edu/blog/up-front/2014/10/21/cross-border-data-flows-the-internet-and-what-it-means-for-u-s-and-eu-trade-and-investment/.*

China's use of standards is particularly problematic for a few reasons. First, China uses standards as final implementing guidelines of laws (including the Cybersecurity Law) for companies, meaning the standard is our last chance to clarify and address problematic provisions of laws and regulations. Political pressure in China to produce standards rapidly has also led regulators to offer insufficient comment periods that fall far short of the WTO's recommended 60-day comment period.[3]

Second, China claims that numerous Chinese standards are in line with international standards; however, they frequently contain key differences that require companies to modify products and practices specifically for the Chinese market, which takes time and increases costs for foreign companies. Moreover, China's reluctance to allow foreign experts to participate in the standards-setting process in a truly robust and influential way has limited technical experts' ability to counter these trends.

Third, China seeks to promote its standards in international standards setting bodies. The cumulative effect of China rapidly publishing and promoting "China-unique" standards that favor Chinese companies will not only limit foreign companies' access to the Chinese market but also reshape international standards in favor of Chinese companies.

Recently, China has also sought to codify its standards-setting process in law through revision of its Standardization Law. The Standardization Law presents numerous requirements unique to China, including public disclosure requirements for internal company practices that will add unnecessary costs and risk making public sensitive company data and practices. For example, the Law requires that companies disclose "enterprise standards," which are related to the features and performance of a company's product. In addition, the inclusion of a preference for indigenous innovations in the Law creates trade barriers that would conflict with China's obligations under the WTO TBT Agreement. In order to counter these trends, we must ensure that countries' national standardization practices are fully compliant with international norms and WTO obligations that apply to a central government standardizing bodies.

WHY DO COMPANIES STAY IN THE CHINESE MARKET?

While the Chinese market presents clear risks and impediments for foreign companies, its size and impact on the global supply chain cannot be ignored. In 2017 alone, the U.S. exported $23 billion worth of ICT goods to China.[4] And, as of 2015, China was the second largest export market for U.S. commercial ICT services exports in Asia. Put simply, companies cannot be truly global if they give up 25 percent of the global market.

Customer retention is another important factor. Customers operate globally, and they expect leading American companies to offer services where they need them. If U.S. companies cannot operate in China, they risk ceding to Chinese companies in the global market, as customers—particularly those that depend on services such as Cloud—will seek out companies that provide services in all markets in which they operate.

Ultimately, companies face two unappealing options: loss of the Chinese market and diminished global competitiveness OR operating in a risky and highly restricted but profitable and important market.

WHAT THE U.S. GOVERNMENT CAN DO TO CHANGE THE STATUS QUO

ITI appreciates that the U.S. Government recognizes that there is a market-access problem in China and has taken steps to address it, including USTR's Section 301 investigation and subsequent report regarding China's unfair trade policies and practices. The tools that the U.S. Government uses to address these issues, however, must be tailored and strategic to avoid causing unnecessary harm to U.S. consumers, businesses, and the economy. I'd like to outline a few basic tenets below.

DO NO HARM TO U.S. CONSUMERS AND BUSINESSES

Tariffs are counterproductive. The broad array of products identified by USTR for increased tariffs will have a significant negative impact on the U.S. economy across multiple sectors, increasing prices for consumers and businesses. The administra-

[3] The WTO TBT Agreement Code of Good Conduct calls for a 60-day comment period and mandatory reply to all comments received by domestic and international stakeholders.
[4] U.S. GDP was $19.739 trillion in the fourth quarter of 2017.

tion has claimed that consumer goods will be exempt from tariffs; however, the structure of the global supply chain and the numerous product inputs from across the globe factoring into final products make it virtually impossible to exempt consumer goods from the increased costs attributable to tariffs. For example, smart home devices like connected thermostats would increase in price as a result of these tariffs,[5] as the final product ships from China though it is the product of U.S. know-how and innovative technology. Additionally, tariffs on key components of televisions, touch-screen devices, and cameras are all captured by the current list of potential tariffs and, if imposed, will yield increased prices on the final product. In short, tariffs ultimately amount to a tax on American consumers.

DON'T GO IT ALONE—LEVERAGE INTERNATIONAL PRESSURE AND COALITIONS

We cannot ignore the global importance of the Chinese market and we cannot unilaterally punish China into changing its behavior. It is misguided to assume that publically—and unilaterally—punching China will change behavior. As we are seeing play out in real-time, this will only prompt China to retaliate in order to demonstrate that it won't be bullied by the United States.

We must focus on what works. Multilateral pressure is one of the few tactics that has caused China to change course. For example, in 2004, China proposed an international standard for wireless security, "Wireless Authentication and Privacy Infrastructure (WAPI)." China subsequently tried to make this mandatory for wireless LAN equipment in China. Members of the International Standards Organization (ISO) refuted the mandatory status of the standard and slow-rolled its approval as an international standard. With the support of business groups and standards group around the world, ISO ultimately rejected the proposal for WAPI to become an international standard in 2006.

In 2009, China required that "Green Dam-Youth Escort" screening software be installed on computers to be sold in China, ostensibly for the purpose of restricting pornographic imagery. However, the software had clear "censor-ware" capabilities with intrusive surveillance potential; cybersecurity experts also noted serious security vulnerability concerns. The international community across businesses, rights groups, and NGOs, and the United States, Japanese, and EU governments combined intense pressure on numerous fronts, which led to the delay and ultimate suspension of the program.

Finally, while it is fair to say that bringing China into the WTO has not had the positive impact that we hoped for, it does create the opportunity to hold China accountable. Thus far, China has not faced any real consequences for its actions. It's time for the international community to stand united and tell China that its market access restrictions will no longer be tolerated.

COMPETE WITH CHINA AND INVEST IN OUR FUTURE

Punishing China and restricting Chinese investment in the United States alone will not help us achieve our goals. We must invest in our own future. This means investing in research and development, education, science and technology, artificial intelligence (AI), and incentivizing innovation—all of which are key to our future economic and societal prosperity.

We must be prepared to step up and compete with China. Regardless of whether China plays by the rules or not, Chinese inventors, entrepreneurs, and businesses will continue innovating and will close the technological gap between the United States and China. While we of course want a level playing field, we must also step up our game. China is making a concerted and strategic effort to invest and plan for its economic and technological future. The United States can and should do more. According to the World Economic Forum, in 2016 China had 4.7 million recent STEM graduates while the United States had 568,000 graduates. In 2017, China accounted for 48 percent of the total global investment in AI startup funding, while the U.S. accounted for 38 percent. In monetary terms, China invested $7.3 billion in AI while the U.S. invested $5.77 billion.[6]

China is also on track to outpace the United States in other areas. For example, according to a 2018 International Data Corporation (IDC) report, the United States will spend $22 billion on smart city development this year. China is close behind

[5] *https://www.federalregister.gov/documents/2018/04/06/2018-07119/notice-of-determination-and-request-for-public-comment-concerning-proposed-determination-of-action.*

[6] *https://www.technologyreview.com/the-download/610271/chinas-ai-startups-scored-more-funding-than-americas-last-year/.*

with projected spending at $21 billion.[7] As of 2015, there were 1,000 smart city pilot plans in the works worldwide, 500 of which were located in China.[8]

These are just a few examples. The bottom line is that the United States is failing itself by not seriously investing in our country's technological and economic future.

CONCLUSION

The tech sector faces serious challenges in accessing the Chinese market. We must address these challenges aggressively, but we also cannot ignore or deny the significant role China plays in the global economy as a key piece of the global supply chain, supplier of products and components, and a vital market for U.S. goods and services.

There is no question that it is time to demonstrate to China that there are consequences for its unfair trade actions, and that the international community will not tolerate blatant disregard for international norms and principles of free trade. However, addressing China's behavior must not come at a cost for American consumers and businesses. And we cannot let our efforts distract us from strengthening and developing our own tech sector and economy. We do ourselves a disservice if we downplay the need to invest in our ability to compete with an increasingly innovative and technologically advanced China.

Market access in China is a complex and multi-faceted problem that will require us to be strategic on numerous fronts. With the right approach, we can address these serious issues in a way that benefits, not harms, the United States and the global economy.

On behalf of all ITI members, I thank you for having me before the committee today and commend you for your interest in examining the evolving U.S.-China trade relationship. We stand ready to work with you to address these challenges. I look forward to answering your questions.

PREPARED STATEMENT OF THEA M. LEE,
PRESIDENT, ECONOMIC POLICY INSTITUTE

Thank you, Chairman Cornyn and Ranking Member Casey, for the invitation to participate in this important hearing. I am the president of the Economic Policy Institute, the Nation's premier think tank for analyzing the effects of economic policy on America's working families. EPI has focused attention over many years on the impact of the imbalanced U.S. economic relationship with China on U.S. jobs and wages, as well as on American business and the long-term prospects for U.S. innovation and growth.

Seventeen years after China acceded to the World Trade Organization (WTO), the bilateral economic relationship between our two countries is enormously lopsided and problematic. The U.S. ran a goods trade deficit with China of $375 billion in 2017—up from $83 billion in 2001. This is the largest single bilateral trade deficit between any two countries in the history of the world—and it continues to trend upwards, despite 20 U.S. challenges to China at the WTO, despite earnest annual bilateral talks and commitments, and despite all the "reform" commitments China made upon accession.

Furthermore, it is not just the sheer size of the U.S. trade imbalance with China that is of concern. It is the composition.

As recently as 2001, the U.S. ran a global trade surplus in advanced technology products (ATP). ATP includes advanced elements of computers and electronics, as well as biotechnology, life sciences, aerospace, and nuclear technology, among others. ATP should be a strong suit for a wealthy, technologically savvy, high-skilled, capital-intensive country like the United States. However, roughly coincident with China's entry into the WTO, the surplus turned to deficit and grew rapidly, hitting $136 billion in 2017. The U.S. ATP deficit with China is more than our entire *global* ATP trade deficit, which was $110 billion. This means that excluding China, we actually have a trade *surplus* in ATP with the rest of the world. This statistic alone

[7] *https://www.techrepublic.com/article/smart-cities-expected-to-invest-80b-in-technologies-in-2018/.*

[8] *https://www2.deloitte.com/content/dam/Deloitte/tr/Documents/public-sector/deloitte-nl-ps-smart-cities-report.pdf.*

should be a signal that there are significant anomalies in the U.S. trade relationship with China that cannot be explained by market forces.

Meanwhile, top U.S. exports to China include raw materials, agricultural products, and waste materials. Between 2001 and 2015, we saw the fastest growth in imports over exports with China in computers, electronics, miscellaneous manufactured commodities, and apparel. We saw the fastest growth in exports over imports in agriculture and aerospace (where significant technology is being transferred over time). This is not the profile of imports and exports that would be expected between countries at the respective economic development levels of China and the United States.

WTO PROMISES

In 2000, politicians from both the Democratic and Republican parties and business leaders argued that WTO accession would create a "win-win result for both countries"—the U.S. would gain access to Chinese markets, "reformers" in China would ascend in the political/economic hierarchy, workers' rights would improve, and both countries would prosper.

The actual outcomes have been decidedly different.

According to USTR, China is still not fully compliant with the commitments it made during the WTO accession process. American companies trying to do business in China face theft of trade secrets, counterfeiting, inadequate protection of intellectual property, online piracy, industrial policies that promote domestic goods at the expense of U.S. products, subsidies, discriminatory product standards, the dumping of excess capacity, and restricted access for American services. Seventeen years after accession, China has not even listed all of its restricted export subsidies, let alone eliminated them, as promised.

In addition, China has used currency policy to gain an unfair competitive advantage over American business and labor. During the crucial decade after China's accession, the Chinese Government intervened systematically and in one direction in currency markets to thwart exchange rate adjustment that could have helped to rebalance trade with the United States. The legacy of that currency intervention remains an important factor in the current imbalance. While in principle both the WTO and the IMF have mechanisms and rules to address currency manipulation, in practice no U.S. administration has yet been willing to use those mechanisms or U.S. unilateral measures to address this problem.

IMPACT ON JOBS AND WAGES

This litany of unfair trade practices and currency manipulation has had a serious and pervasive negative impact on American jobs and wages. As my colleague, Rob Scott, demonstrated in a 2017 report, "Growth in U.S.-China Trade Deficit Between 2001 and 2015 Cost 3.4 Million Jobs," the deficit cost jobs in all 50 States and the District of Columbia. Between 2001 and 2011, the growing trade deficit cost directly impacted workers $37 billion a year, while also putting downward pressure on the wages of all non-college graduates by $180 billion a year.

American businesses have also suffered from closed markets and unfair practices in China, but they are often reluctant to initiate trade complaints or protest, as they fear any public outcry will bring more unfavorable treatment on their company.

It is no secret that the Chinese Government has a long-term economic strategy to build certain sectors through subsidies, as well as purchasing, tax, and regulatory policies. These strategies are announced publicly at regular intervals—pillar industries, strategic emerging industries, Made with China, Made in China 2025. These strategic plans are variations on the theme of "picking winners," also known as industrial policy, something American politicians of both parties tend to scorn. These plans set targets for indigenous production, use of technology, favorable treatment for state-owned enterprises, and discriminatory treatment of foreign brands and companies, among other things. These practices are deep and pervasive.

Of course, the Chinese Government has a right to set its own strategic goals, and the United States can certainly be faulted for failing to articulate, let alone implement, any coherent, long-term economic strategy.

But there are two problems here, and we should be careful to distinguish them. On the one hand, many of the Chinese Government's practices are inconsistent with international rules and norms—not just WTO rules on prohibited subsidies and dumping, but also international conventions on workers' rights, public health, human rights, environmental protections, intellectual property rights, and consumer safety. The United States touts the importance of a rules-based system, but if some players—like China—flout the rules with impunity over decades, then the rules-based system becomes a trap for those who comply. The United States failure to adequately enforce existing rules is why there is so much pent-up frustration among workers and domestic producers over trade with China. The U.S. Government's piecemeal and scattershot enforcement strategy has been time-consuming and ineffective.

The U.S. Government has not ever raised, in any systematic or meaningful way, China's failure to comply with its obligations as a member of the International Labor Organization to "respect, promote, and realize" the core international workers' rights outlined in the ILO Declaration on Fundamental Principles and Rights at Work: freedom of association, right to organize and bargain collectively, and freedom from child labor, forced labor, and discrimination. This means that American workers and businesses are competing on a tilted playing field, since Chinese workers cannot exercise their rights to form independent and democratic unions.

On the other hand, the United States has its own responsibility to develop and implement a coherent long-term economic strategy with respect to both manufacturing and services, both trade-related and domestic. The U.S. Government has failed to invest adequately in infrastructure and skills for decades, and business has not filled the void. We have a tax system that rewards capital over labor and outsourcing over domestic production. It remains riddled with unproductive loopholes, and—especially after last year's changes—it fails to raise adequate revenue to fund needed investments.

Our trade policy is geared toward boosting the profits and mobility of multinational corporations, but not creating and supporting good jobs at home. Our government spends a lot of time and energy negotiating new trade agreements, but has failed to act to stem currency manipulation, which undermines the market-opening measures negotiated with so much fanfare.

Forced technology transfer, IPR transgressions, and the loss of domestic capacity in key sectors can all contribute to the undermining of American innovation and technological leadership. This has consequences not just for the current labor market, but for our future trajectory.

The Chinese Government is clearly playing a long game, while the U.S. is egregiously shortsighted. Our trade policies in the past have been so inadequate in scale and slow in implementation that by the time we take action, it is often a decade too late, with the result that our trade actions are ineffective, if not counterproductive.

We need to reform our domestic trade laws so we can act expeditiously—as soon as the Chinese government announces its strategic priorities, not a decade later, after we've lost market share and the technological edge. Going forward, we must address new barriers to trade in services and e-commerce. We need to make sure that we have—and are willing to use—measures to address currency misalignment. Our trade enforcement measures should prioritize good jobs, workers' rights, democracy, environmental compliance, and consumer safety over outsourcing and short-term profits.

In summary, the U.S. Government needs to develop and articulate its own long-term economic development strategy. It needs to use domestic tax, infrastructure, and workforce development policies to ensure that American workers and businesses have the tools and skills they need to compete successfully. But the government also needs to strengthen our trade compliance and enforcement measures and be willing to use them aggressively and consistently and in a timely manner to ensure that our trade relationship with China is reciprocal and fair.

Thank you for your attention. I look forward to any questions you may have.

COMMUNICATION

UNITED STEELWORKERS (USW)

Statement of the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW)

On behalf of the 850,000 members of the United Steelworkers (USW), we wish to thank you for holding this important hearing on market access challenges in China and for the opportunity to provide submissions to the record. Access to foreign markets are critical for any manufacturer, and as the largest union in the manufacturing sector in North America, it is imperative that the rules of trade provide for fair competition that raises living standards for all workers.

Since the ascension of the People's Republic of China (PRC) to the World Trade Organization (WTO), the dramatic loss of U.S. manufacturing jobs has been staggering. The growth in the U.S. goods trade deficit with China eliminated or displaced 3.4 million U.S. jobs between 2001 and 2015 according to research by the Economic Policy Institute. Nearly three-fourths of the jobs lost, or 2.6 million jobs, were in manufacturing.[1]

The market access barriers in China are not unknown to American workers or to Congress. The most recent National Trade Estimate report of the United States Trade Representative (USTR) highlights, in 18 pages, multiple long standing market access barriers for every segment of the economy from agriculture to manufacturing.[2] Each of these barriers represents a long established issue with the PRC, such as the illegal hacking of several USW represented companies like United States Steel. Throughout 2010, the Chinese Government subjected U.S. Steel to cyber-attacks. Then in 2011, government hackers in China hijacked information from U.S. Steel on advanced high-strength steel used in the auto industry.

Companies in China had been unable to develop this technology and were under pressure from their domestic car companies to get it. So their government stole it for them. After the theft, one of the largest steel companies in China, Baosteel, used the trade secrets to produce the specialized steel and export it to the United States in direct competition with U.S. Steel.[3]

These attacks also targeted USW staff. We were directly attacked by China's People's Liberation Army hackers, as shown in the May 2014 indictment obtained by the U.S. Attorney for the Western District of Pennsylvania, David Hickton. Several of our employers were also identified as victims in those attacks.[4]

These overt raids of intellectual property and espionage of labor organizations are unfortunately just one of the many challenges with the PRC market. The industrial policies of the country create a wide array of limits to U.S. products that were long established prior to the recent announcements of retaliation by the PRC for the U.S. attempt to maintain its critical defense and infrastructure through the completion of the 232 investigations on steel and aluminum.

USW members in the food processing and ethanol industries have seen anti-dumping and countervailing duties raised against their exports because of the PRC's mer-

[1] *https://www.epi.org/press/the-growing-trade-deficit-with-china-cost-3-4-million-u-s-jobs-between-2001-and-2015/.*

[2] *https://ustr.gov/sites/default/files/files/reports/2017/NTE/2017%20NTE.pdf.*

[3] *https://www.usw.org/blog/2016/outlaw-chinese-steel.*

[4] *https://www.usw.org/news/media-center/releases/2018/usw-section-301-decision-confronts-chinas-intellectual-property-abuses.*

cantilist policies. After USW tire workers successfully petitioned the Obama administration for tariff relief under section 421 of U.S. trade law on passenger vehicle and light truck tires, the PRC responded by illegally retaliating against U.S. chicken producers.[5]

In the last 2 years, the PRC has also raised significant tariffs on U.S. ethanol production, undercutting foreign market growth for U.S. producers and amplifying ongoing issues in U.S. domestic renewable fuels policy. In late 2016, the PRC added a 30-percent tariff on U.S. ethanol exports, the goal was not to prevent U.S. dumping but to develop the domestic industry and reduce Chinese subsidized corn stocks.[6] The addition of a 15 percent ethanol tariff in retaliation for the Administration's steel and aluminum 232 announcements was not just a response to tariffs but strategically done to blunt U.S. producer's competitiveness. U.S. imports had recently picked up after prices fell enough to be attractive even with the high 30-percent duties.[7]

While much attention continues to be paid to the PRC's retaliatory threats against U.S. agricultural products, previously established market access barriers from the country's "Made in China 2025" program will undercut the U.S. ability to access the Chinese market in advanced manufacturing. The PRC intends to develop and grow advanced information technology, automated machine tools and robotics, aviation and spaceflight equipment, maritime engineering equipment and high-tech vessels, advanced rail transit equipment, new energy vehicles, power equipment, farm machinery, new materials, biopharmaceuticals and advanced medical products. The country intends to capture these advanced manufacturing productions through state-driven plans and initiatives, as it, for example, sets targets for indigenous production or control of up to 40 percent of certain critical components in the aerospace, power and construction sector.[8]

How we respond to these market challenges is a critical function that the administration and Congress must address. For too long U.S. manufacturing workers have been asked to sacrifice their jobs to what economists blithely call "comparative advantage." However, economics 101 quickly falls apart in the real world where political calculations are made. U.S. workers cannot idly wait years for international forums to squabble over terms and definitions of industrial overcapacity and other critical debates. Congress should support aggressive attempt to open Chinese markets but not at the expense of unilateral domestic deindustrialization. Trade between the two largest individual economies in the world today must be fair and reciprocal.

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[5] *https://www.reuters.com/article/us-chicken-china-sb/u-s-china-tire-spat-couId-hurt-chicken-feet-idUSTRE58D4P620090914.*

[6] *https://lta.reuters.com/article/marketsNews/idLTAL4N1DM34C?rpc=401&.*

[7] *https://www.reuters.com/article/usa-trade-china-ethanol/update-1-china-tariffs-on-u-s-ethanol-to-cut-off-imports-in-short-term-idUSL4N1RF4G0.*

[8] *https://ustr.gov/sites/default/files/tiles/reports/2017/NTE/2017%20NTE.pdf.*