

Prepared Testimony
of Michael Wessel
before the Subcommittee on Multilateral International Development, Multilateral Institutions,
and International Economic, Energy, and Environmental Policy
of
Senate Committee on Foreign Relations
“A Multilateral and Strategic Response to International Predatory Economic Practices”
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Chairman Young. Ranking Member Merkley. Members of the Committee. I want to thank you for your invitation to appear before you today to discuss a multilateral and strategic response to international predatory economic practices. It is an honor to appear before you.

My name is Michael Wessel and I am appearing before you today wearing two hats: First, as a Commissioner on the U.S.-China Economic and Security Review Commission (China Commission), where I have served since its creation in 2001. Second, as a representative of the AFL-CIO and its 12 million members. But, as a disclaimer, I am speaking for myself, although my comments are informed by my service on the Commission and my work with organized labor over my entire career in Washington.

The Commission was created by Congress in 2001 in conjunction with the debate about the grant of Permanent Normal Trade Relations (PNTR) to China, paving the way for its accession to the World Trade Organization. The Commission was tasked with monitoring, investigating and submitting to Congress an annual report on the national security implications of the bilateral trade and economic relationship between the United States and the People’s Republic of China, and to provide recommendations, where appropriate, to Congress for legislative and administrative action.

The grant of PNTR ended the annual debate about whether to extend most favored nation status to China. But even as it passed PNTR, Congress created the Commission because it did not want to forego the annual review of our relationship with China. Since the creation of the Commission, our mandate has been extended and altered as the US-China relationship has evolved.

The Commission is a somewhat unique body: We report to and support Congress. Each of the four Congressional leaders appoint 3 members to the Commission for 2-year terms. In 7 of the last 10 years, we have issued unanimous reports. In the 3 years where it was not unanimous, there was only one dissenting vote. In many ways, the evolving challenges and opportunities posed by the relationship with China have united us in our analysis.

I also serve as the staff chair of the Labor Advisory Committee (LAC) to the USTR and Department of Labor. The LAC is a statutory committee made up of more than 20 unions that provides advice on U.S. trade policy and negotiations. Each of the LAC principals, and their

liaisons, are cleared advisors and are able to access the text of negotiations, to the extent they are made available, as well as interact with our negotiators and their teams.

These hats offer a 360-view of what is happening in the economy and the intersection of our international and domestic economic policies. While the American people and our producers have unique advantages and capabilities, as well as latent strength, we face enormous pressures in the world. Those pressures are well known to the Members of this Committee.

The title of this hearing is broad and testimony that does justice to its sweep could encompass several volumes. I hope that my thoughts will address some of the key concerns of the Subcommittee and I welcome the opportunity to work with you as you assess these issues.

This hearing comes at a particularly important time. Last week, senior Administration officials were in Beijing to engage their counterparts in seeking to address the predatory and protectionist policies of the Chinese. China stands out in terms of the extensive public pronouncements it has made and actions it has taken to advance its interests and expand its economic and military power and capabilities.

But, while I will focus most of my comments on China, as I have spent considerable time as a Commissioner evaluating their policies, China is not necessarily unique. Its state-led development policies, coupled with a non-market approach, is being emulated by other nations as the benefits of such an approach have become clear, as have the failure of the U.S., and multilateral institutions, to update and reform their approaches. India, Brazil and other countries are taking cues from China.

The Administration is seeking to confront these policies. Needless to say, we can all find fault with how they have approached some of these challenges. But, what we cannot question is the fact that the predatory policies of our trading partners – led by China – must be addressed. Time is growing short in terms of being able to tip the balance back in our favor or at least level-the-playing field, and ensure that market-led policies that will keep America as the world's technological and economic leader and ensure broadly-shared prosperity here at home.

China's leaders have solidified their power and, in turn, the ability to fulfill their plans to become a global technology leader, if not *the* global technology leader in the not-too-distant future. China has well-developed and aggressive plans in this area. Their plans are public and provide a clear roadmap for them to follow, and for us to assess.

Unfortunately, until only the last two years, public policy leaders either largely ignored China's public pronouncements or simply didn't properly assess their competence in, and commitment to, reaching those goals. That has been a huge mistake and has led to rapid advancements by China in ways that have been fueled by U.S. omissions and commissions.

This hearing is also particularly timely in light of the President's actions to confront Chinese policies in the intellectual property arena. The press is writing about the threatened imposition of tariffs by both the U.S. and China, but has not focused sufficiently on the underlying issues that have plagued U.S. businesses, innovators and workers for years. China's actions have had a clear and substantial impact on our productive capacity and the employment of our people. This hearing, in part, will help to shed light on some of those issues.

China is committed to achieving its goals and will engage in legal means if possible, and illegal means if necessary, to achieve those goals. In the Administration's December 2017 *National Security Strategy of the United States of America* document, examples of illegal practices by China were identified as "cyber enabled economic warfare." There are many areas that fall under the jurisdiction of this Subcommittee that bear on China's future success, and ours.

In your invitation letter, you posed a number of questions. I do my best to respond to concisely below:

- 1. What sort of Chinese international predatory economic and business tactics do the U.S. and American companies confront (e.g. tactics related to market access, regulatory environments, protectionism, distortive subsidies, foreign ownership, coercive technology transfer, and intellectual property theft)?**

The Chinese government employs a labyrinth of policies, with associated strategies and tactics to advance its economic and national security interests. Indeed, the government views economic and national security policies as inextricably intertwined. The government must support significant levels of economic growth to ensure that their grip on power can be maintained. If growth diminishes, unemployment and dissatisfaction may rise, causing substantial pressures on the government to reform. President Xi has solidified his grip on power with the recent change allowing him to serve more than two terms in addition to steps he has taken to magnify his control and leadership of the People's Liberation Army and the Chinese Communist Party. Cracking down on dissent must be coupled with steps to alleviate economic and social stress and China's economic policies often fulfill those objectives.

China has a coordinated strategy to advance its interests and dominate sector after sector. This is clearly identified in public documents, the most notable being Five Year Plans and the Made in China 2025 plan. That latter plan identifies the goal of becoming close to, if not, self-sufficient in ten key sectors. In several sectors, the government identifies that a majority of the products and services utilized must be developed and produced indigenously. In robotics, for example, the goal is 70% of 2025.

That goal will be achieved in a variety of ways. China's approach is far from perfect. But, as it is a non-market, state-led economy that has amassed trillions of dollars in foreign currency reserves via protectionist and predatory policies – including currency manipulation and misalignment strategies – China can afford to make mistakes.

Many of China's top firms are state-owned. They aren't judged primarily on their ability to turn a profit or on efficient spending but on their ability to fulfill state directives and needs. They have access to low-cost or, indeed, no-cost capital as non-performing loans might be rescheduled or forgiven. They benefit from state procurement preferences, the design of standards either at the government level, or within standards-setting bodies. There are a variety of other supporting policies and programs as well, including direct subsidies, tax abatements, free land and other preferences.

But even firms that want to be considered as "private" aren't free of government's hand – in positive and negative ways. Thilo Hanneman of the Rhodium Group, said at a hearing of the China Commission last year, that "It is difficult to properly classify state-owned entities and the distinction between private and state-owned companies for policy analysis based on nominal equity ownership is problematic. China's state-dominated financial system and the lack of rule of law means that state involvement can be pervasive, even if a firm is nominally privately owned."

And, while the rules change on a regular basis, large outward investments by these firms must be reviewed and approved by the Chinese government. Major investments advance only if they further the interests of the government and the Party. So, for example, in the robotics sector, one of the leading international firms, Kuka, was taken over by China's Midea Group in 2017 to accelerate China's industrial robotics capabilities.

Last year, the China Commission heard testimony as to the possible activities of Chinese actors to diminish the value of acquisition targets prior to purchase. This possibility, if true, raises significant issues that need further attention. As China seeks foreign acquisition targets to enhance its capabilities, if they are engaged in cyber and human espionage activities to reduce the cost and attractiveness of assets it wishes to acquire, it poses a significant threat to our economic and national security interests.

In addition to the network of policies supporting Chinese indigenous production, where needed, China's government supports development and acquisition strategies. This may occur through legal, coercive and illegal means, including cyber and human espionage. In the intellectual property area, this was well-documented by the USTR in its Section 301 report that was the basis for the Administration's recent action against China for IP violations.

But, China also targets U.S. universities, colleges and research institutes to help support its technology programs. China's 111 Program, and its 1,000 Talents Program, is designed to cultivate foreign experts to come to China and help advance Chinese technological and scientific capabilities. The 1,000 Talents Program has an array of benefits including a signing bonus that is roughly equivalent to \$158,000.

In addition to the above, China is engaged in a broad array of other predatory practices including dumping and subsidization, forced and coerced technology transfers, the use of unlicensed software, the production of counterfeit copyrighted, patented, and trademarked goods, continuing additions in productive capacity in sectors such as steel and aluminum where there is already

substantial domestic and global overcapacity, the violation of internationally recognized worker rights, and other practices. China simply does not play by the rules.

2. Does China provide U.S. companies reciprocal access and treatment? If not, what are the most prominent or significant cases where American companies do not have reciprocal access in China?

Across a broad range of sectors, China does not provide reciprocal access. Even in those sectors that are supposedly “open” the government often maintains a role in limiting access. From services to technology to aerospace to agriculture, China has a managed economy and engages in managed trade.

China did abide by many of its commitments to lower tariffs in compliance with its protocol of accession to the World Trade Organization. But behind those reduced tariffs are often layer upon layer of protectionist policies. In major sectors, China’s leading firms are state-owned entities where foreign competition is severely limited, if not outright prohibited.

In an increasingly informationalized and globalized economy, China’s technology restrictions are significant barriers. China’s requirements for restrictions on data flows, limits on foreign cloud providers access to the market, requirements that source code be provided by certain players all confound the ability of foreign firms to access and operate on a global basis.

Additionally, access to China’s market is often subject to joint venture requirements. Many of these requirements were accepted as part of China’s accession agreement – a fundamental flaw of that agreement. But, in other areas, access to the Chinese market does not legally require joint ventures, but it’s tough, if not impossible, to access the market without a partner. Often, as was noted in the USTR’s Section 301 report, the joint venture partner requires that technology be transferred as a condition of engaging in the partnership.

Last June, the National Development and Reform Commission and the Ministry of Commerce jointly issued the Catalogue of Industries for Guiding Foreign Investment. This catalog replaces the earlier catalog and is designed to identify those sectors where investment is welcomed. The investments are designed to help fill gaps in Chinese capabilities and advance the goals of the 13th Five Year Plan and other government programs. It represents some liberalization from past catalogs but still maintains significant limitations.

In my own view, we have to be careful about the concept of reciprocity as there are many sectors I would argue should not be opened to Chinese state-owned, state-controlled or state-invested enterprises at this point. Even if we were to have China commit to access in their market, it might not be in our own interests to provide such access on a reciprocal basis. And, as is well-documented, Chinese promises are often broken, while the U.S. keeps its promises. The quality of market access, even in an area where we might wish to access the Chinese market, might be substantially undermined by their government policies and practices. This should be done on a case-by-case basis.

As a result, I believe it would be unwise to restart Bilateral Investment Treaty negotiations with China. There is no indication that the Administration is preparing to restart the BIT negotiations but Congress should be aware of the serious peril that exists if BIT negotiations resume.

3. What are the national security and foreign policy implications of these international predatory economic practices for the U.S.? How have the U.S. government and American companies responded to predatory practices? How should the U.S. respond?

China has targeted a broad range of industries for development and preferential status in their Five-Year Plans and other policy pronouncements. These range from agriculture to metals to autos to high technology and other sectors. As today's hearing is focused primarily on technology issues, my comments will center around those sectors.¹

China's Made in China 2025 Initiative identified 10 key sectors the government would further support with the goal of fostering Chinese leadership in areas of technology with significant economic and national security implications. They include:

1. New Energy Vehicles
2. Next-Generation Information Technology
3. Biotechnology
4. New Materials
5. Aerospace
6. Ocean Engineering, High-Tech Ships
7. Railway
8. Robotics
9. Power Equipment
10. Agricultural Machinery

Each of these sectors in China has benefited from a whole-of-government approach to ensuring that Chinese companies stake out dominant positions in the global market. And, they are promoting the idea of "national champions": companies that have significant market share and presence in China to dominate the market.

These national champion companies, many of which are state-owned enterprises, are benefiting from strong state funding (including provincial and local level support), foreign talent and technology acquisition, an insulated domestic market and even industrial espionage.² China is

¹ See *China's Technonationalism Toolbox: A Primer*, Katherine Koleski & Nargiza Salidjanova, U.S. China Economic and Security Review Commission, March 28, 2018. <https://www.uscc.gov/Research/china%E2%80%99s-technonationalism-toolbox-primer>

² 2017 Annual Report to Congress, U.S.-China Economic and Security Review Commission.

effectively leveraging international openness, particularly that of the U.S. market, academic community and research institutes, to augment domestic capacity and capabilities with the ultimate goal of self-sufficiency in advanced technologies.

In the case of the next generation of electric vehicles (EVs), the Chinese government has sought to secure global leadership in EVs through the use of significant state-support in production and infrastructure, overseas acquisitions and the use of state-sponsored incentives to artificially boost domestic demand. Identified in the Made in China 2025 strategy, EV production has been the recipient of hundreds of billions of dollars in subsidies at the central, provincial and local government levels.³ EV charging stations have been provided additional subsidies to meet the goal of 12,000 stations being installed in China by 2020.⁴ Yet, while investing billions of dollars in fostering the industry, the Chinese government has insulated the market from foreign competition.

Out of the gate, any foreign-made automobile entering China is subject to a 25% tariff, however; if a foreign company agrees to form a joint-venture with a Chinese counterpart, and agrees that any EVs sold will be sold under a Chinese brand, that tariff can be waived.⁵ Yet, these joint-ventures often require that technology be transferred and raise threats of intellectual property theft.

In 2015, the U.S. and China each sold roughly 190,000 EVs. One year later, China's sales grew to over 350,000 EVs, eclipsing U.S. leadership.⁶ China's use of non-market economy tactics has led to its successful rise to the position of global leader in EV production, to the detriment of foreign competitors forced to compete on a massively uneven playing field. China's approach to EVs is only one, of many examples of the nation's state-dominated economic system that has wreaked havoc on American producers and their workers over the last 17 years.

When China joined the World Trade Organization in 2001, many economists overestimated or, indeed, were limited by ideological blinders in thinking China would just continue to compete against the U.S. in low-value products like toys and textiles. Last year, China ran a surplus in Advanced Technology Products trade (ATP) with the U.S. of \$135.3 billion. The quantity and composition of our trade with China has changed dramatically since 2001.

Some of China's advances are the result of U.S. naiveté and policy mistakes.

The U.S. has essentially failed to address Chinese industrial policies since its membership in the WTO. Before that, as early as the mid-1990s, the U.S. took only limited acts against Chinese intellectual property rights violations. Over the years, several memorandums of understanding were signed between our two countries meant to throttle back some of China's policies. But,

³ November, 2017, Economics and Trade Bulletin, U.S.-China Economic and Security Review Commission, <https://www.uscc.gov/sites/default/files/Research/November%202017%20Trade%20Bulletin.pdf>

⁴ Ibid

⁵ Ibid

⁶ Ibid

their illegal acts continue and, indeed, increased in effectiveness. The China Commission has tracked these mistakes over the years. Numerous public and private reports have documented these violations as well as these industrial policies and their cost to the U.S. in terms of production, jobs and lost economic benefits.

The U.S. was naïve in thinking that China wanted to be just like us when it acceded to the WTO. Those who supported China's accession viewed the commitments from a "Western", free market, rule-of-law perspective. China simply had and retains a different view of what its commitments meant or, perhaps, simply had no intention of abiding by the promises they were making.

America's lopsided trade relationship with China has also fueled China's development and advances in the science and technology arena. Since China joined the WTO, the U.S. has amassed an accumulated merchandise trade deficit of roughly \$4.3 trillion. That is a transfer of wealth. It has allowed China to make massive investments in its future – many of which are to our nation's disadvantage.

U.S. multinational companies have responded to Chinese policies and practices in a variety of ways. During the "honeymoon" period after China's accession to the WTO in 2001, companies flocked to China with the hope of accessing its more than 1 billion consumers. Of course, there were successes. But, over time, Chinese companies – often as joint venture partners – were able to harvest the benefits and learning from those relationships, to advance their own interests.

This led to the next phase of responses where multinational companies began to question the long-term value of their operations there. Many were still hopeful and continued to invest. Many were coerced with the perceived "threat" of lost sales if they did not invest. Others continued to flock to China with no intention of selling to the Chinese market—but solely to take advantage of cheap production methods and produce for the U.S. market. Still other companies chose, in the light of their concerns, and rising intellectual property theft, to limit the technologies they transferred to second and later-generation activities.

At the same time, China was beginning to "squeeze" foreign companies through a variety of efforts including stricter rules relating to data transfers, competitive activities and other areas. During this period, China continued to promote export-led growth and foreign invested enterprises found that China could serve more as an export platform than as a market opportunity. Recent data indicated that 46% of Chinese exports emanated from foreign-invested enterprises. This was directly counter to the interests of U.S. domestic producers and their workforce.

Of course, many companies chose to double-down on their operations and relationships with China. General Electric, for example, engaged in a joint venture with AVIC, one of China's state-owned aerospace firms, transferring avionics technology. China is now poised to become a world leader aerospace leader with the ARJ-21 and Comac's C-919 which have taken

advantage of U.S. technology. In addition, China's use of offsets has pressured other aerospace firms to transfer production to China to ensure that they are able to sell their products there.

These and many other Chinese practices have largely gone unchallenged by the U.S. Private sector petitions on dumping and subsidies have led the way in addressing those practices. Despite our government having the authority to self-initiate action under these authorities, only one case – against aluminum products – was lodged during the past 20 years.

In several other areas, it was the petitions of private sector parties that led to challenges to Chinese practices – this occurred with regard to auto parts, green technology and surging imports of tires. Dialogue has been the principal tool of past administrations to get China to change its actions, and those efforts have met with limited success.

The Administration has chosen to broadly challenge Chinese policies – with Section 232, Section 301, Section 201 and otherwise. It's clear that the business-as-usual approach of the past of dialogue and denial wasn't working – one can measure that by rising trade deficits, shuttered facilities and lost jobs. Now that serious engagement has started, it is not the time to let up: We need to see this through, although there certainly could be some pain along the way, if we are to address the competitive threats our nation faces.

4. To what degree have the U.S. government and American companies sought remedies in international/multilateral fora? What have been the results? How can we more effectively take advantage of these venues to protect American economic competitiveness? From a U.S. perspective, are key international/multilateral organizations fulfilling their mandates? Do they need to be reformed to address current predatory economic practices and to reflect the characteristics of the modern, global economy? If so, how?

As noted, the U.S. government has had a limited agenda in terms of seeking to address our trade challenges in international fora. Clearly, if bilateral or multilateral dialogue and engagement can address our problems, that would be the preferred course. But, over time, with China and other countries, that engagement has often proved fruitless.

Indeed, with regard to the WTO, challenges often take 2-5 years to resolve. Many challenges are lost as the WTO, through the appellate body, has imposed obligations that were never negotiated. This "overreach" has become a fundamental problem for the U.S. and is being challenged by the USTR. This has occurred in cases ranging from the ruling against the so-called "Byrd Amendment" to certain dumping methodologies.

And, relief under our trade laws and at the WTO is prospective in nature. By the time relief may be available, much of the injury has already occurred. Of course, the relief is important but a firm may never recover lost sales and workers may never recover their jobs or wages. Other countries know that they can often get away with their predatory practices for significant periods of time.

In addition, while our trade laws have been updated somewhat by Congress in the past several years, with important changes, more must be done. For example, the potential for foreign state-owned and invested enterprises to increase their operations here – through acquisitions or greenfield investments – poses a serious threat to the operation of our trade laws and for market-based firms to compete. Take, for example, the case of Tainjin Pipe, a Chinese state-owned firm setting up operations in Texas. The U.S. pipe market is already in trouble with operations shutdown, idled or operating at reduce capacity. Tainjin will have access to low-, or no-cost capital that directly challenges the operating margins of our firms. Tainjin may import so-called “green pipe” to avoid existing antidumping and countervailing duty orders and undergo minor finishing operations resulting in further cost advantages which can’t be met by our firms. And, to top it off, under our trade laws, Tainjin will have standing to try and undermine potential trade cases opposing them from even proceeding as they would qualify as a domestic producer.

Our trade laws need to be more actively used by our administration to pursue relief. Self-initiation authority exists, but has only been used once by this Administration. The burden should not be on private companies and workers to fight for trade enforcement – it should be an automatic right. We also need to examine, as the USTR has been doing, how to reform the WTO and need to look at whether other avenues for relief exist. We need to engage our trading partners to develop coalition efforts. And, we must not be reluctant to directly challenge our trading partners – China and others – when they break the rules and threaten our future.

5. Besides the U.S., what other countries are most negatively impacted by China’s predatory international economic and business practices? Do these countries represent natural allies for the U.S. in an effort to put an optimal multilateral pressure on China to reform its practices?

It’s not hyperbole to say that the entire world economy has been impacted by China’s predatory international economic and business practices. From the U.S. to Latin America to Africa to Europe and other portions of the globe, China’s policies have had an impact. China’s thirst for resources has changed world markets as it has taken steps to secure resources to support its economy and its interests. It has invested billions of dollars in nations across the globe to ensure that it has the energy and mineral resources it needs. Many of these investments have skewed markets, empowered regimes and changed economies.

Often this investment is welcomed as the U.S. has substituted trade for aid, and that trade often comes with “strings” including anti-development requirements, financial deregulations and requirements that increase the price of medicines for needy people.

China’s continued development of its industrial capacity has resulted in massive productive capacity, often significant overcapacity that threatens market-oriented producers here in the U.S. and around the globe. While much attention has been given to China’s steel and aluminum overcapacity, it extends to many more sectors including shipbuilding, rubber, glass, chemicals and others.

Suffice it to say that China's activities effect virtually every country's economy.

That provides an opportunity for coalition-building to address China's policies and practices. For some cases, such as the current challenge to China's intellectual property violations, the EU, Japan and other countries have either indicated support, or are likely to support us. On overcapacity, there are ongoing talks at the OECD and at the Global Forum on Steel spurred by action by the G-20.

At the same time, China has influence operations – direct and indirect – targeted at key trade allies who should be on our side. From contracts to investments to political support, to other activities, China seeks to ensure that it can continue its practices without interference from the world community.

Much more can be done, but we also have to recognize that, with regard to some multilateral fora, such as the World Trade Organization, they have not been up to the task. While formal complaints can be adjudicated, although it may be 2-5 years before final relief is available, the organizations can be disabled by consensus-oriented rules. And, China is very good at utilizing its vast power to delay, deter and deny action to address its activities.

China also often refuses to acknowledge its illegal actions when confronted directly. The decision by the UN Convention on the Law of the Sea (UNCLOS) in the case filed by the Philippines against China's activities in the South China Sea was ignored by China. And, to date, there have been no real repercussions to China's actions as it has continued to reclaim rocks and reefs and militarize them. Many believe that the U.S. has limited ability to engage on the specifics of the case as it is not a signatory to the Convention.

The current tension in the global economy may provide an opportunity to address China's activities. The U.S. has led the effort. But, it's time for other countries to stop holding our coat while we bloody our nose. International engagement and support for our efforts to address China's predatory and protectionist policies can help resolve these matters and ensure that market-oriented approaches guide the results. That is the preferred course, but we cannot wait for others to join in. Negotiations have been launched and pushing our chairs away from the negotiating table while we wait for multilateral engagement will only embolden China to continue on its present path.

6. What are the current U.S. legal, regulatory, and other tools to protect U.S. interests in cases where there is an identified threat? How can the U.S. better use those tools? What additional tools are needed?

The U.S. has a broad array of existing tools to address U.S. economic interests. As has been noted, one of the problems is that Administration has largely left enforcement and action on these issues to the private sector. Indeed, while President George W. Bush initiated action under Section 201 on steel early in his Administration, that was only after it was clear that the Senate Finance Committee was poised to act, under its authority to seek action.

The current Administration has shown a willingness to use a variety of tools to act, including Section 301 (to address violations of trade agreements and unjustified, unreasonable or discriminatory acts), Title VII authority (antidumping and countervailing duty authority), Section 232 (to address imports that threaten national security), International Emergency Economic Powers Act (IEEPA), the Committee on Foreign Investment in the United States (CFIUS), and other authorities.

My view is that we have many of the tools, we just have not either been willing to use them, or need to be more creative in assessing their utility. For example, Section 482 of the Internal Revenue Code allows for action against transfer pricing schemes. This authority was used as a tool when Japan was alleged to have engaged in transfer pricing abuses in the past to diminish the stated profits of their subsidiaries here in the U.S. As foreign firms expand their operations and investments in the U.S., we need to make sure that they are not using transfer pricing as a means to essentially subsidize their operations.

The Securities and Exchange Commission has broad authority to assess the operations of entities listed on U.S. exchanges to determine whether there are “material” events that investors should be aware of. A number of Chinese state-owned firms are listed on the New York Stock Exchange and many other Chinese firms are listed elsewhere. China’s desire to access U.S. capital markets is clear, especially noted by their recent failed attempt to acquire the Chicago Stock Exchange. The SEC can evaluate these companies to ensure that U.S. investor interests are not being put at risk.

The SEC, in cooperation with law enforcement and intelligence authorities, should also assist in evaluating potential acquisitions of U.S. companies to determine whether there have been efforts to undermine the market value of the acquisition targets. This is an area of extreme importance.

Similarly, as the China Commission recommended last year, “Congress should consider legislation to ban and delist companies seeking to list on U.S. stock exchanges that are based in countries that have not signed a reciprocity agreement with the Public Company Accounting Oversight Board (PCAOB).” The inability of our auditors to have full and unfettered access to the work papers associated with the financial operations of companies listed on our exchanges puts at risk the integrity of the information provided to investors.

The Department of Commerce has extensive authority to collect information on the activities and operations of firms operating in the U.S. market. For the China Commission, we have been trying to learn about how Chinese firms operating here operate similarly, or differently, from their U.S counterparts. We have been unable to identify comprehensive business school type case studies that would help shed light on these operations. The DOC’s existing authority to issue questionnaires and collect data could help advance our understanding of the operations of foreign firms in our market and determine whether any actions might be appropriate to address problems, if they exist.

I believe that there should first be an assessment of existing authorities, their utility and the willingness of authorities to utilize them before we have an expansive examination of what additional tools are needed. In my view, the failure of government to act has created a climate that essentially tells our trading partners they can engage in predatory acts with virtual impunity. That must change.

But, there are three quick suggestions I will make that will be further discussed as a response to the last question posed by the Subcommittee.

First, Congress should consider S. 2757, the National Economic Security Strategy Act of 2018.

Second, the underlying authority for the Committee on Foreign Investment in the United States must be updated to address new challenges and threats.

Third, we should act on S. 2566, the Level Playing Field in Global Trade Act of 2018 to ensure that trade agreements include enforceable standards to promote living wages and sustainable production methods.

7. What is your assessment of S. 2757, the *National Economic Security Strategy Act of 2018*? Do you support this legislation? Why do you believe it is necessary?

I want to commend the Chair and Ranking Member, along with Senators Rubio and Coons for coauthoring and introducing this legislation. I believe it should be a priority for this Congress to consider how to address the important issues raised by this bill, in particular, the development of a national economic security strategy.

Last year, the China Commission assessed China's activities in the high technology sector. In assessing China's activities, and U.S. policies, the Commission recommended that

Congress direct the National Science and Technology Council, in coordination with the National Economic Council and relevant agencies, to identify gaps in U.S. technological development vis-à-vis China, including funding, science, technology, engineering, and mathematics workforce development, interagency coordination, and utilization of existing innovation and manufacturing institutes, and, following this assessment, develop and update biennially a comprehensive strategic plan to enhance U.S. competitiveness in advanced science and technology.

S. 2757 takes a more expansive, and appropriate view, of the need for a broader national economic security strategy that looks beyond the high technology sector to U.S. interests at large. It requires the periodic preparation, and publication of a national economic security strategy for the U.S. That approach will fill a critical gap in public policy and enable an all-of-government and public understanding of the challenges facing our nation, and the action plan to address those challenges.

In the 1980s, America faced similar questions about its competitiveness. While the impact of Japan's economic policies pale in comparison to those posed by China and other countries today,

the concerns nevertheless generated enormous debate. Policy, labor, corporate and academic leaders opined about what the state of America's economy was, what our future had in store for us and what actions might be appropriate to take.

A pivotal event during that period was the convening of the President's Commission on Industrial Competitiveness, chaired by John Young, who was then the President and CEO of Hewlett-Packard. The report of the Young Commission, and subsequent public debate, triggered action by government and the private sector. It also helped foster the development of the Omnibus Trade Act of 1988 which was a comprehensive approach to address many of the challenges that existed at the time and expanded trade law provisions to respond to predatory acts, increased support for the research and development and expanded the role of the National Institutes for Standards and Technology, enhanced the authorization for the Committee on Foreign Investment in the United States (CFIUS), and authorized a number of other important programs and initiatives.

I spend an enormous amount of time with labor leaders, workers and domestic corporations to try and identify ways to promote production and employment in the U.S. Unfortunately, there is no well-defined strategy that gives confidence that the challenges facing our nation are understood, and that there is an action plan to address those challenges. Your legislation, much like the National Security Strategy that focuses on our military security challenges, will help ensure that there is a coordinated, comprehensive and clear plan to enhance our nation's competitiveness and, in turn, our economic and national security. That is a vital step forward.

As part of the assessment, the critical question of income inequality and measures to address it should be included. The International Monetary Fund and others have recognized the impact of inequality on the economy.

It is also critical that an action plan puts the nation's and not a political party's interests first. The balanced, bipartisan authorship of the legislation is a strong indicator that a national economic strategy can be developed that can address today's challenges and prepare our country for the future.

8. Please provide specific policy/legislative recommendations to improve American economic competitiveness and security.

In my testimony, I have identified several areas that demand attention and action. Let me reiterate some of those here, and elaborate, where appropriate.

As noted, the authorship by several members of this Subcommittee of S.2757, the National Economic Security Strategy Act of 2018 signifies an important bipartisan opportunity to provide an assessment of our nation's competitiveness and our security challenges and provide for the publication of an action plan to address those issues. A comprehensive approach to these challenges is solely needed.

Congress should also act to update the authority for the Committee on Foreign Investment in the United States. The AFL-CIO recently endorsed the bipartisan Foreign Investment Risk Review Modernization Act (FIIRMA) that is before the House and Senate. It is a reasoned

approach that balances the desire to continue our open investment climate and our security interests. The AFL noted that the scope of the legislation should not be diminished but, rather, Congress should consider the inclusion of a net-economic benefit test as countries such as Canada and Australia have in their investment screening regimes.

Congress should act on S 2566, the Level Playing Field in Global Trade Act of 2018, introduced by Senator Merkley. This legislation would ensure that trade agreements include enforceable standards to promote living wages and ensure sustainable production methods. Many other countries use low wages and lax environmental standards as an incentive to outsource production and offshore jobs to those areas. We must not allow attacks on workers or the environment to continue to undermine our own living standard and environmental regime. New trade agreements can be a force for progress if they are correctly constructed and properly enforced.

As the China Commission recommended in its 2016 Annual Report, Congress should “enact legislation requiring its approval before China – either the country as a whole or individual sectors or entities – is granted status as a market economy by the United States. This is a critical issue and has been a high priority for the Chinese leadership, having been raised, once again, in the bilateral talks with the U.S. last week. China is far from being a market economy, but the Department of Commerce has the unilateral authority to change its current designation. There is no sign that Commerce has any intent of changing the designation, but Congress should affirm that it is the view of Congress that no action can occur on this substantive matter in the future without its consent.

In an additional recommendation made by the China Commission in 2016, Congress should “require that under antidumping and countervailing duty laws, Chinese state-owned and state-controlled enterprises are presumed to be operating on behalf of the state and, as a result, do not have standing under U.S. trade laws against unfair trade to block a case before proceeding.

A critical issue that is vital to ensuring a competitive economy is expanding investments in infrastructure. In addition to expanding the capacity for economic growth, infrastructure investments can expand our ability to bring products to market, equip our citizens with access to high-speed internet, enhance educational opportunities and meet other critical needs.

The above are just some of the many actions that Congress should consider as it evaluates this important subject area. I would welcome the opportunity to work with you and your staffs as your work continues.

Again, thank you for the invitation to appear before you today and I look forward to your questions.