

RPTR KERR

EDTR CRYSTAL

HOW THE CCP USES THE LAW TO SILENCE CRITICS
AND ENFORCE ITS RULE

Thursday, September 19, 2024

House of Representatives,

Select Committee on the Strategic Competition Between
the United States and the Chinese Communist Party,
Washington, D.C.

The committee met, pursuant to call, at 9:18 a.m., in Room HVC-210, Capitol
Visitor Center, Hon. John Moolenaar [chairman of the committee] presiding.

Chairman Moolenaar. The select committee will now come to order.

In China, there is no justice. There are no rights. There is no free speech. There is no rule of law. Anything said or done that goes against the wishes of the Communist Party in China, whether that be a mention of Tiananmen Square or an ethnic minority simply trying to survive, can be squashed by the CCP with no due process.

General Secretary Xi Jinping has said the judicial and law enforcement departments should uphold the absolute leadership of the Chinese Communist Party. Suspected criminals who end up in court are found guilty 99 percent of the time. China is an authoritarian country with an authoritarian judicial system to match.

By contrast, America's democratic governance and the rule of law is upheld in our judicial system. We believe that all people, no matter their birth or creed, have the God-given rights of freedom of speech, freedom of expression, and the right to pursue happiness. Our courts reflect our fundamental respect for freedom and the rule of law.

As our Founders believed, government should secure the rights of the people rather than functioning as a tool in the arsenal of those at the top.

Our liberties terrify the CCP. This is because the Chinese people that the party rules with an iron grip could look at our freedoms and demand them for themselves.

So the Chinese Communist Party that has already squashed freedom at home now seeks to export its authoritarian model of control across the globe. It is now trying to exploit the American legal system.

This hearing will expose this emerging trend and help chart a path forward to stop it.

Over the last year, the select committee has noticed an alarming trend. Researchers, business owners, and academics who expose the truth about a Chinese company, whether it be the party's theft of genomic data, forced labor, or malign trade

practices, have suddenly found themselves slapped with frivolous lawsuits.

Whether the charge is defamation or libel, it is all the same. American citizens and institutions are suddenly faced with the enormous burden of fending off large Chinese companies, their sham complaints, and their army of attorneys funded by seemingly unlimited budgets, all mobilized in an attempt to intimidate the authors into silence.

Chinese companies also refuse to comply with valid court judgments, use bankruptcy proceedings to steal national security technology, and use the Patent Trial and Appeal Board to thwart the innovation of American businesses.

These Chinese companies are not independent actors. Every company in China is subject to control by the CCP and the party's national security laws. That means that any company operating in China has to do the bidding of the CCP when asked.

So when the researches reveal the truth about unethical practices of Chinese companies, they face the wrath of the Chinese Communist Party and all the money and coercive power that comes along with it.

These defendants are faced with a choice: Be silent and back down against the CCP's pressure campaign or continue to tell the truth and face the tremendous reputational and financial costs of these lawsuits alone.

One of our witnesses here today has chosen to speak out. Ms. Anna Puglisi has exposed the truly evil work of the Beijing Genomics Institute, or BGI, and has offered several reports on China's use of state power to manipulate markets and dominate industries.

In June of 2024, Anna received a cease and desist letter from BGI threatening legal action against her if she did not take down her research about the company, which it alleged to be false and defamatory.

Rather than kowtowing, Anna has bravely decided to fight back and speak out here today for the first time.

Anna, we are honored to have you here with us today, and we are so impressed by your commitment to the truth.

Our other two witnesses, Jamil Jaffer, founder and executive director of the National Security Institute, and Dr. Jill Goldenziel, a professor at the National Defense University, are both experts in their own right on this issue and can speak about China's strategy to subvert the rule of law in the United States and abroad.

We are thrilled to have you both with us.

Today's hearing will demonstrate how the Chinese Communist Party uses the American legal system to silence those who might expose them in America. This is lawfare, plain and simple, and it needs to be stopped.

The select committee stands with those who have experienced these intimidation tactics, and I look forward to hearing from our witnesses on how Congress can take this issue on.

I now want to recognize our ranking member, Raja Krishnamoorthi, for his opening statement.

[The statement of Chairman Moolenaar follows:]

***** COMMITTEE INSERT *****

Mr. Krishnamoorthi. Thank you, Mr. Chair.

This picture right here is one of a group of judges in the People's Republic of China.

In China, the law is a tool of the party, not the people. In contrast, America sees the law as a tool to resolve differences between parties where openness and fairness prevail.

The Chinese Communist Party, known as the CCP, is taking advantage of the fairness of our system to undermine our security and bolster theirs.

I would like to focus on three ways this is happening.

First, the CCP and its affiliated entities are using American courts and courts in like-minded democracies to silence critics and fight its opponents.

Mr. Scott Paul, the head of the Alliance for American Manufacturing, who has testified before our committee twice, recently made truthful statements about BYD, a Chinese carmaker. He said that it was controlled by the CCP, and in return BYD sued him. He was forced to spend years fighting in court.

Believe it or not, because of this litigation, his insurance policy was even cancelled because, quote, unquote, criticizing the Chinese Government, as this graphic shows, in the email it says criticizing the Chinese Government "may lead to allegations of defamation," which is "not an acceptable exposure."

This is the long arm of the CCP reaching into our jurisdiction. By having BYD sue Mr. Paul, they not only attempt to scare him from speaking out, but they are also trying to scare American companies from even doing business with him.

The real cost of these lawsuits isn't just measured in dollars and cents but also in the stories untold. The committee has spoken with multiple people who want to tell their stories but cannot because they signed NDAs, nondisclosure agreements, to settle

frivolous CCP-backed threats.

Because when you are in a lawsuit, it opens up discovery, allowing the CCP to get all sorts of sensitive documents about you. But when Americans try to get documents from CCP-affiliated entities, they can't, because PRC law often prohibits it.

The CCP exploits the unfairness of this situation to its advantage.

Second, CCP-backed litigants are also suing Americans in China and then trying to enforce those judgments in problematic ways elsewhere.

This graphic right here is Mr. Li Rui's diary. Mr. Li was Chairman Mao's personal secretary, and Mr. Li wrote harshly about the Chinese Communist Party. His daughter gifted these particular diaries to Stanford University, but now the CCP wants to get these diaries back so it can rewrite history.

So the CCP's proxy sued Stanford in Beijing, where of course, unsurprisingly, the CCP won. Now it is trying to enforce that judgment in California. Stanford should be concerned because, after all, they have assets in China that the CCP could seize.

But even worse is for companies that have employees in China. When an American company gets sued in China and loses, until the judgment is paid the CCP can and does put exit bans on its executives, blocking them from leaving the country.

For example, one American businessman has been stuck in China for over 6 years after a startup he invested in defaulted on its loans and the Chinese creditor sued him for millions of dollars he simply cannot pay.

This brings me to my third and final point.

CCP-affiliated entities can sue our companies, but we can't easily sue their companies, let alone their government. More specifically, it is nearly impossible -- impossible -- to sue them in China and very hard to even sue their companies here in the U.S.

In fact, as you can see in this headline in The Washington Post, when Chinese citizens learn that CCP-backed companies that the U.S. has --

[Cell phone ringing.]

Mr. Krishnamoorthi. Sorry. That is the CCP calling.

In fact, as you can see in this Washington Post headline, when Chinese citizens learn that CCP-backed companies that the U.S. Government has sanctioned can actually sue the American Government in American courts, they are amazed. That is because suing the Chinese Government in China is virtually impossible.

And it is not much easier to go after Chinese companies either. Even in U.S. courts some claim to be protected by sovereign immunity and others use shell games to shield their assets and make our judgments unenforceable.

Simply put, the decks have been stacked against us.

And I don't think this is a coincidence. Xi Jinping has said the CCP must, quote, "use the law to carry out its international struggles," close quote.

The CCP views the law as a sword to use against its opponents and a shield to protect its interests.

Thank you. And I yield back.

[The statement of Mr. Krishnamoorthi follows:]

***** COMMITTEE INSERT *****

Chairman Moolenaar. Thank you, Ranking Member Krishnamoorthi.

If any other member wishes to submit a statement for the record, without objection, those statements will be added to the record.

Our first witness is Mr. Jamil Jaffer. He is the founder and executive director of the National Security Institute at the Antonin Scalia Law School at George Mason University, where he also serves as an assistant professor of law, director of the National Security Law and Policy Program, and director of the Cyber, Intelligence, and National Security Program.

Our second witness is Ms. Anna Puglisi. Ms. Puglisi is currently a visiting fellow at Stanford University and a senior adviser to the National Security Commission on Emerging Biotechnology. She was previously a senior fellow at Georgetown University and also served as the national counterintelligence officer for East Asia at the National Counterintelligence and Security Center.

Our third witness is Dr. Jill Goldenziel. She is currently a professor at the National Defense University's College of Information and Cyberspace and an affiliated scholar at the University of Pennsylvania's Fox Leadership International Program.

Dr. Goldenziel was previously a professor at the U.S. Marine Corps University Command and Staff College, a Climenko fellow and lecturer on law at Harvard Law School, and a research fellow at the Harvard Kennedy School's Belfer Center for Science and International Affairs.

In addition to these witnesses we hear from today, we have also received several articles of written testimony, which I ask unanimous consent to enter into the record.

Without objection, so entered.

[The information follows:]

***** COMMITTEE INSERT *****

Chairman Moolenaar. With that, I want to welcome all the witnesses and thank you for being here with us this morning.

And, Mr. Jaffer, you are now recognized for your opening remarks.

STATEMENTS OF MR. JAMIL JAFFER, FOUNDER AND EXECUTIVE DIRECTOR, NATIONAL SECURITY INSTITUTE; MS. ANNA PUGLISI, VISITING FELLOW, STANFORD UNIVERSITY HOOVER INSTITUTION; AND MS. JILL GOLDENZIEL, PROFESSOR, NATIONAL DEFENSE UNIVERSITY COLLEGE OF INFORMATION AND CYBERSPACE

STATEMENT OF JAMIL JAFFER

Mr. Jaffer. Well, thank you, Chairman Moolenaar and Ranking Member Krishnamoorthi, for holding this hearing today.

Given the pressure currently being focused on American experts and researchers by Chinese companies and the Chinese Government in American courts, it is critical that we take a moment to look at what is happening in our system.

We have a Chinese Communist Party that is the single largest threat to the United States, currently and going forward, for at least the next decade, if not longer.

The Chinese Government actively threatens our allies and partners in the Indo-Pacific, including Taiwan. It is engaged in a campaign of genocide against Muslim Uyghurs in the Xinjiang region. It is engaged in repression within its own country in Hong Kong and Tibet. And it is using American courts now to go after American researchers and scholars who have the temerity to call out the Chinese Communist Party for its bad actions both at home and abroad.

China is not alone in this effort. It partners with other global repressors, like Russia, Iran, and North Korea. This is a combined effort of global repressors to replace our system of the "rule of law" with a system the Chinese call "rule by law." That is using their laws and ours against us to win the larger competition for global supremacy.

You see this taking place today. You will hear what happened to Ms. Puglisi. You will hear about Dr. Roslyn Layton, a scholar at the National Security Institute and an expert in the field of China's activities in the national security realm. She has been threatened -- and not just threatened, but litigation has been brought against her -- by YMTC, a Chinese semiconductor manufacturer that at one point was considering partnering with Apple.

This is a company that the U.S. Department of Defense has listed, pursuant to statute, passed by this committee, and enacted into law, that calls it a Chinese military company. Dr. Layton is being sued in Federal district court here in the District of Columbia for saying the exact same thing.

YMTC's American lawyers at the American law firm of Latham & Watkins have said that her accusations are baseless, that they have no true meaning, that they are an effort of misinformation or disinformation and a campaign of lies.

The lawyers at Latham & Watkins didn't even bother to mention in their complaint that the Department of Defense 6 months earlier had determined that YMTC is a Chinese military company.

And if it were just Ms. Puglisi and Dr. Layton you might forgive them for thinking this is a one-off thing. But it is not. This has been going on since 2016 when they came after other American actors, including the American Alliance for Manufacturing, a prestigious group brought together by industry and labor, the United Steel Workers. BYD has gone after Americans as well, the Chinese car manufacturer.

We see it over and over and over again. Our courts are being exploited against us by the Chinese Communist Party and the People's Republic of China to their benefit.

And it is not just our courts. They are doing it to social media as well. We see action against people who spoke out against TikTok. We have seen actions against

members of this committee. The former chairman of this committee, Mike Gallagher, was recently sanctioned by China.

But it is not just Congressman Gallagher. It is Members of Congress, Senators, American officials alike being sanctioned by China for speaking out, calling out the Chinese Communist Party for what it is, a repressive regime, its actions combining with Iran, Russia, and China. They do it over and over and over again.

And that is why this hearing is so important. It is why your attention to these matters is so important. It is why we need to change our laws to respond to what they are doing. We need to incentivize, not penalize, the kind of activities that Dr. Layton and Ms. Puglisi have engaged in.

We can empower our own legal system to take action. We can give Ms. Puglisi, Dr. Layton, and their colleagues who call out these things the opportunity to benefit from our own sanction regime if we were to give them the ability to take advantage of some of the resources we obtain when we sanction China, relying on their research.

We can protect them in our courts by giving them different burdens of proof against the Chinese parties that come into our courts and seek to use our courts. We can allow them to get out of litigation, addressing the issue of discovery early on in the litigation.

We can incentivize the trial bar by giving them the opportunity to defend people like Ms. Puglisi and Dr. Layton by giving them treble damages against the Chinese companies that seek to exploit our courts against our own people.

These efforts are critical, but they are one small part of the operation. We also need to get the word out to the American people.

That is why ensuring that TikTok ultimately is banned, as this committee has sought to do, is critical, and it is why the arguments earlier this week in Federal court

were so important.

Thank you for the opportunity to testify today, and I look forward to your questions.

[The statement of Mr. Jaffer follows:]

***** COMMITTEE INSERT *****

Chairman Moolenaar. Thank you, Mr. Jaffer.

Ms. Puglisi, you may proceed.

STATEMENT OF ANNA PUGLISI

Ms. Puglisi. Thank you.

Chairman Moolenaar, Ranking Member Krishnamoorthi, members of the committee, thank you for the opportunity to testify today.

As you mentioned, I am currently a visiting fellow at Stanford's Hoover Institution and the founder of a research security consulting firm. I previously served as a senior fellow at CSET at Georgetown and was the U.S. national counterintelligence officer for East Asia.

I sit before you today because my most recent academic paper, published in May, done through CSET at Georgetown, titled "China Biotechnology and BGI: How China's Hybrid Economy Skews Competition," which was a deep dive on China's biotechnology ecosystem and how it supports its companies, BGI, MGI, and Complete Genomics, has resulted in those companies threatening to bring the weight of our own legal system down on me.

In June, I received a threatening letter from counsel for BGI. And in July, I received a threatening letter from counsel for MGI. Their counsel are established American law firms here in Washington, D.C. BGI's letter accused me of defamation, asked me and CSET to retract my paper, say I was wrong, and stop discussing this analysis. MGI's letter also wanted me to change what I said.

They took issue with the following points: Laying out BGI and MGI's ties to China's government, analysis showing that policies that China has give advantage to its companies, and highlighting China's willingness to use genomic data in ways that the West is not, including collection of genomic data from ethnic minorities in Xinjiang.

These three points are central to the policy discussions happening now with the Biosecure Act, as well as implementation of NSPM-33 and research security at U.S. universities and institutions and funding agencies.

My points are not defamatory. They are the results of research that should be made public for analysis, discussion, and consideration.

Are they slightly uncomfortable for China's state-supported entities? Perhaps. But those entities have the ability to publicly refute my research using their own facts. They have not done so.

Instead, they have decided to go after me, a researcher who undertook a comprehensive analysis of public and highly complex data in order to alert the U.S. Government to potential national security risks.

My story also highlights our country's own elite capture that aids China and silences or tempers the work of many others, as I have not received the support I need from and was promised by Georgetown University to respond to BGI's threats of lawfare. Georgetown University has to this point refused to indemnify my defense to the lawfare brought by these Chinese companies I have criticized.

My analysis bumped up against an entrenched world view that ignores the well-documented risks posed by CCP, treats China as a neutral actor, and assumes that Chinese companies, research institutes, and universities function like our own or our allies.

I was criticized at CSET for my work and told I was not being flexible in my

thoughts and that points I was making were a dog whistle. I was also asked to remove statements about the shortcomings of using Western financial sources to analyze Chinese commercial entities for my paper. These are sources that are still used in other CSET analysis.

What I presented in my paper is damaging to the Chinese commercial entities because it lays out the complexity of their structures and ties to China's government. What I present is also damaging to other researchers that use Western economic indicators and sources to analyze a nonmarket economy.

What has happened to me can happen to anyone that conducts research that China's state-supported entities and the government in Beijing does not like. This is a growing trend that we as a country need to act on or it will fundamentally change our system.

So moving forward, we need to consider the following.

When China cannot win on the facts or on the merits of its policy positions, it turns to threats and intimidation.

My academic paper discussed the results of my research with respect to China's biotechnology goals and its support for its national champion, BGI, and this research has put me in the crosshairs of those companies and led to threats of lawfare.

Speaking out today may put me in further jeopardy, but I feel that if we begin to self-censor ourselves because of the actions of an authoritarian regime, we become more like them and less like an open democracy.

So in conclusion, we need policies for the China we have, not the China that we want. But what will also make this difficult is that that reality that China is presenting is inconvenient to those benefiting in the short-term.

That includes companies looking for short-term profits, academics that benefit

personally from funding, or administrators who want to keep tuition dollars, high-priced law firms that send threatening letters to people like me exercising my right in an open democratic society that has academic freedom to point out the behavior of a nation-state that doesn't share our values, doesn't play by the rules, and seeks to dominate in key technology areas.

So I really want to thank the committee for continuing to highlight these issues. If we do not highlight and address China's policies that increasingly target people within our own borders, we give credence to a system that undermines fairness, openness, and human rights.

So thank you very much.

[The statement of Ms. Puglisi follows:]

***** COMMITTEE INSERT *****

Chairman Moolenaar. Thank you for your courage speaking out and for being with us today, Ms. Puglisi.

Dr. Goldenziel, the floor is yours.

STATEMENT OF JILL GOLDENZIEL

Ms. Goldenziel. Thank you, Chairman Moolenaar, Ranking Member Krishnamoorthi, and members of the committee. Thank you for the invitation to testify.

I am speaking today in my personal capacity. My views are my own and do not necessarily represent the views of the National Defense University, the Department of Defense, or its components.

The PRC is weaponizing law in its strategic competition against the United States. The PRC is using legal warfare to undermine the rules-based international order and to set the conditions to export authoritarianism and advance its military and strategic interests.

The PRC considers legal warfare -- often translated as lawfare -- to be foundational to its civil-military fusion strategy. No official definition of legal warfare exists in U.S. or PRC publications. The U.S. Indo-Pacific Command and U.S. European Command have adopted a definition I developed in a recent Law Review article in their Counter-Lawfare Programs.

I define lawfare as the purposeful use of law taken toward a particular adversary with the goal of achieving a particular strategic, operational, or tactical objective; or the purposeful use of law to bolster the legitimacy of one's own objective toward a particular adversary; or to weaken the legitimacy of a particular adversary's objective.

PRC legal warfare, however, goes beyond what I designed as a neutral definition.

PRC legal warfare aims to distort international law and subvert the rules-based international order and the U.S. constitutional order.

The goal of legal warfare is to factionalize the PRC's adversaries and weaken their will to fight.

Legal warfare shapes the legal context and international and domestic narratives to support the PRC's military and political aims. PRC scholars view legal warfare as a form of combat in its own right.

The PRC aims to gain "legal principle superiority" over its adversaries -- that is their term, "legal principle superiority" -- to ultimately control the meaning of international law itself.

It is important to note that PRC legal warfare, as I define it, is distinct from standard use of the U.S. legal system by foreign companies. Standard users of a legal system work within the system and respect the rule of law.

PRC legal warfare is different. It aims to undermine democratic legal systems and international law. It aims to reshape the rules-based international order in the PRC's favor.

Standard users of a legal system seek to advance their interests while playing by the rules. PRC legal warfare ultimately seeks to rewrite the rules, change the game, and control the entire league.

The PRC routinely creates new domestic laws and institutions to lend a veneer of legitimacy to its authoritarian actions. The PRC has enacted a "Legal Great Wall," its term for more than 20 national security-related laws passed in recent years. Last week, I was in the Philippines discussing what these laws mean for our allies in the South China Sea.

The U.S. National Counterintelligence and Security Center has published a list of

eight laws that pose particular risks to U.S. businesses. These laws expand the PRC's oversight of domestic and foreign companies operating within the PRC. They also extend PRC control over those companies' data, including data outside the PRC.

The PRC's state-owned enterprises and corporations are acting consistently with the PRC's legal warfare strategy. PRC-based litigants have recently attempted to use the Legal Great Wall to shield themselves from discovery proceedings in U.S. courts. Other PRC-based entities have used the legal system to attempt to steal national security sensitive intellectual property.

As Mr. Jaffer has discussed, PRC-based entities have filed multiple high-profile libel suits against researchers, nonprofits, and media outlets who criticize the PRC in U.S. courts and the courts of other democracies.

More research is needed to know if these actions are systematically backed by the PRC itself as part of a legal warfare strategy.

It is important to note that many actions by PRC-based businesses in U.S. courts may represent standard litigation tactics by businesses using the U.S. legal system to defend their interests according to due process of law.

But if the PRC is backing or coercing these actions as part of a legal warfare strategy, they represent an attempt to subvert and undermine the U.S. legal process and the constitutional rights of Americans.

I offer six considerations for Congress to counter PRC lawfare in my written testimony, and I look forward to discussing them further in the Q&A. In the interest of time, I will highlight just a few here.

Of crucial importance is enacting Section 1284 of the Senate draft of the 2025 NDAA on "International Legal Operations." This section, which I helped draft, provides that the Secretary of Defense, working with the interagency, will report to Congress on

DOD's role in supporting whole-of-government efforts to identify and expose adversary legal warfare.

A second consideration would be to create an executive branch entity dedicated to countering adversary legal warfare. The U.S. Government currently has no personnel devoted to countering legal warfare and no office devoted to the same, despite the fact that this is a principle underlying the PRC's entire civil and military fusion strategy.

And the third suggestion would be to investigate, monitor, and research PRC legal warfare efforts. This is one of the most important things Congress can do to determine the existence and extent of PRC legal warfare efforts in U.S. courts.

Thank you.

[The statement of Ms. Goldenziel follows:]

***** COMMITTEE INSERT *****

Chairman Moolenaar. Thank you, Dr. Goldenziel.

I would like to now move to questions for our witnesses, and let me begin by Mr. Jaffer.

The ever-secret CCP has created a black box around information on Chinese companies. The party's national security laws have helped create a stronghold of information that is difficult to pierce. Meanwhile, Chinese companies use America's legal system to obtain, with relative ease, information about United States companies.

In oral arguments this week regarding the Protecting Americans from Foreign Adversary Controlled Applications Act, the Department of Justice stated there is no way to verify TikTok's claims about its source code and algorithms because the PRC is a black box.

Mr. Jaffer, would you agree?

Mr. Jaffer. Thank you, Mr. Chairman.

Yes, that is exactly right. The PRC is a complete black box when it comes to identifying information about Chinese companies, who backs them, how they operate.

That is why it is so critical that we have scholars and researchers like Ms. Puglisi, like Dr. Layton, like those people that are calling out the Chinese companies for doing what they do and being who they are, which is Chinese Communist Party-controlled entities.

Dr. Goldenziel talked about this increasing wall. The black box is only getting darker. It is harder and harder for us to identify what these companies are.

If we don't support researchers doing this kind of work and instead let them be intimidated by Chinese companies backed by prestigious American law firms, then we are not doing our jobs.

Chairman Moolenaar. How are they able to get away with this?

Mr. Jaffer. Well, part of it is they exploit their economic power to hire white shoe law firms to threaten people like Ms. Puglisi, to cow Georgetown University, to pressure the NBA into going after its own players and coaches instead of supporting the right of free speech, the defense of minorities, and the like in China.

It is crazy. And we are allowing them to get away with it -- we, the American people, we, the American legal system. But this hearing is a great opportunity to turn the tide on that and to now change the laws, as Dr. Goldenziel has laid out, as we lay out in our testimony. There are opportunities that we have to really take the fight to the Chinese and protect our courts and our researchers against their threats.

Chairman Moolenaar. Mr. Jaffer, in February of this year we sent a letter to ZPMC asking about the company's installation of certain components onto U.S.-bound ship-to shore-cranes, components that are outside of any contract between ZPMC and U.S. maritime ports.

We asked about grants or government subsidies that the companies receive from the PRC Government. We also asked about ZPMC's engagement with companies on the Commerce Department's Entity List.

I have their response here, which I ask unanimous consent to enter into the record.

Without objection, so entered.

[The information follows:]

***** COMMITTEE INSERT *****

Chairman Moolenaar. The letter contains a memo from a Chinese firm evaluating the questions that we asked. An interesting quote: "If ZPMC participates in the committee's review by providing data stored within the territory of the PRC to the U.S. concerning information security, we tend to view that ZPMC might be subject to the data security law."

The memo also said that responses to our questions might involve, quote, "secret matters regarding science and technology," and, quote, "state secrets under the Chinese law requiring ZPMC to apply to the relevant authorities for classification."

ZPMC to this day has never produced the information.

Mr. Jaffer, is this consistent with your understanding of how Chinese companies operate in the U.S.? And what do you know about how Chinese companies define national security?

Mr. Jaffer. Well, Mr. Chairman, I think it shows two things.

One, it shows that they know their own laws will prohibit them from giving this committee, Congress, and our courts the information they need to make judgments about who is appearing before them, who is bringing supplies to our shores, and what these cranes might be able to do once in U.S. ports with these materials that they are carrying.

But more importantly, it also shows that there is something going on here. I mean, it tips us off that if these cranes have questions about state secrets and questions about surveillance and questions that might interfere, that might be required to be classified by the Chinese Government, what does that say about what ZPMC is doing with those cranes?

It tells us, in no uncertain terms, those cranes, as this committee has highlighted before, are in fact a national security threat to American ports, American shipping, and

our access to goods. It demonstrates the fragility of our supply chains and highlights how important it is that we take action now and not wait for these threats to show up on our shores.

Chairman Moolenaar. Ms. Puglisi, is there anything you would like to add? I see you over there nodding your head.

Ms. Puglisi. No. I would just like to add I think that is an ongoing issue, because the whole question of being able to do due diligence or with our researchers to understand who you are dealing with and the opacity of the system is really because China has such a different system. It blurs civilian, military, public, and private.

And that is something that entities associated with the Chinese Government don't want us to understand or to know about because when we do, we can act on that.

Thank you.

Chairman Moolenaar. Thank you.

And I would now like to recognize our ranking member for 5 minutes of questions.

Mr. Krishnamoorthi. Thank you, Mr. Chair.

Today, we are obviously here to talk about how the CCP is using the law to silence its critics and enforce its rule. To do this, the CCP in America is sending cease and desist letters to various critics, and we have talked about that.

Scott Paul was sued in U.S. court for saying BYD, a Chinese carmaker, is controlled by the CCP. And as we heard, Ms. Puglisi received a cease and desist letter after reporting on another company's ties to the CCP.

Folks, these are not ordinary libel threats. That is because companies like BYD are not ordinary companies. Under Chinese law, they must, quote, "cooperate with national intelligence efforts."

And, interestingly, CCP cells are imbedded in their top management, as you can

see in this particular picture of the management of a BYD factory in Hefei, China. This is their CCP cell that runs that factory.

So, Dr. Goldenziel, these defendants in American libel suits are essentially up against potential instruments of the Chinese Government, right?

Ms. Goldenziel. Yes.

Mr. Krishnamoorthi. I feel the decks are stacked against these defendants. If you have been sued for saying a company answers to the CCP, you need to prove that that is true to win your case in America. However, much of the evidence to prove that allegation might be in China.

So, Mr. Jaffer, as you can see from this headline in Reed Smith, getting this evidence can be difficult because of the PRC's national security laws, right?

Mr. Jaffer. That is exactly right. It is exactly why we should dismiss cases if they don't give us the evidence.

Mr. Krishnamoorthi. It is very one-sided. There is an asymmetry here. They can get information about us. We can't get information about them. We can't defend ourselves in suits here.

Let me turn to another topic. CCP-backed litigants are also suing foreign companies in China. This includes so-called, quote, "anti-suit injunctions." These are court rulings that prevent a foreign company from suing a Chinese company anywhere in the world.

When Oppo, a Chinese company, infringed the patent of Sharp Electronics, Sharp sued Oppo in Japan. But Oppo countersued Sharp in China where the court ordered an anti-suit injunction against Sharp to pay a one million yuan per week fine if it tried to protect its IP.

Now, Dr. Goldenziel, these anti-suit injunctions are an example of the court in

China serving the overall work of the CCP, right?

Ms. Goldenziel. Yes, Congressman, it seems that way.

Mr. Krishnamoorthi. Let me show you a picture here.

Companies like Sharp can't just ignore these judgments because Sharp has multiple factories in China, including, for instance, this particular factory in the city of Changshu.

Dr. Goldenziel, if companies like Sharp don't comply with these anti-suit injunctions, the CCP could seize their Chinese assets and potentially impose exit bans on their executives, right?

Ms. Goldenziel. Yes, Congressman, that is correct.

Mr. Krishnamoorthi. And that is why these anti-suit injunctions in China are so harmful.

Let me turn to my final topic.

So the CCP can sue Americans in America and they can sue Americans in China, but in contrast it is virtually impossible to sue the Chinese Government, and it is very hard to sue Chinese companies. There is a gross asymmetry about this situation.

Mr. Jaffer, it is unthinkable that an American company could sue, for instance, one of those Chinese national champions in industry in China and stand a chance against them, right?

Mr. Jaffer. You would lose, 100 percent.

Mr. Krishnamoorthi. Okay.

Well, in American courts suing those Chinese companies is equally difficult. We have a Reuters article up here.

Interestingly, Dr. Goldenziel, because many Chinese companies are state-owned, they often try to claim they have sovereign immunity, right?

Ms. Goldenziel. They do. Fortunately, our courts have done a pretty good job of throwing these suits out on that claim.

Mr. Krishnamoorthi. So they first throw up that smoke screen, that they are somehow a sovereign. And if you are allowed to sue, it is virtually impossible to, for instance, take depositions because China doesn't allow it for U.S. citizens. In fact, American -- I am sorry, for U.S. litigation. In fact, American attorneys can be arrested for taking depositions in China.

Isn't that right, Dr. Goldenziel?

Ms. Goldenziel. That is correct, and the U.S. State Department has put out a warning to this effect.

Mr. Krishnamoorthi. Taking depositions could be harmful to your health.

The CCP has found an asymmetric tool. They can successfully sue American companies and individuals virtually anywhere, but we can't sue them virtually anywhere, and we can't defend against their suits virtually anywhere because discovery is almost impossible.

This is very concerning and it is something that I think our committee should take up.

Thank you very much. I yield back.

Chairman Moolenaar. Thank you.

Representative Luetkemeyer.

Mr. Luetkemeyer. Thank you, Mr. Chairman.

And thank the witnesses for being here today. Fantastic testimony.

Mr. Jaffer, you have talked a lot about some of the things, some of our problems that we have with going back and forth to China.

How do you see us stopping this? I mean, when it comes to our courts, normally

to be able to go to court you have to have standing, do you not?

And, therefore, how do they have standing? I mean, is that a way we can approach this, by saying, hey, anybody from China does not have standing in our courts, therefore, we are going to dismiss any lawsuits? I mean, is that practical? Or tell me how we can put some barriers here for these guys.

Mr. Jaffer. Yeah, I mean, it is one approach, to look at the standing question. Their claim would be they have been injured in the U.S. by people writing and speaking out here.

But what we can do is we could raise the bar for them. We can make it harder for them to bring these suits.

Oftentimes, in cases like fraud, we require heightened pleading standards. We could require them to meet heightened pleading standards if they are a foreign entity or a foreign-controlled entity, like all these China companies are. They have these CCP cells, as the ranking member pointed out.

So we could put bars to make it harder for them to sue in our courts, not make it an easy walk and treat them like we treat an American company, which is crazy. They are not American companies.

And we can also incentivize our own lawyers to defend our own people and say, look, if you win against these Chinese companies, you get treble damages, you get attorney's fees. We can reward these researchers for the work they are doing.

There are a lot of tools we have at our disposal to go and to help defend against these type of lawsuits.

Mr. Luetkemeyer. But we need to make some changes to our laws as a result to make that happen. Is that correct?

Mr. Jaffer. Yes, sir.

Mr. Luetkemeyer. Very good. Thank you.

Ms. Puglisi, thank you so much for being here today. It is very interesting to see you here, and we appreciate the courage it takes to be here.

Just for the record, because our record is permanent, and they are trying to take yours and wipe it out, what exactly did you do with your research, so we can get it on record to make sure that there is a record there that they cannot dispose of?

Ms. Puglisi. Thank you very much. It is an honor to be here today.

What our research did was it was based on -- we look very closely, my research looks very closely at China's S&T development and tech acquisition strategy and how that relates to U.S.-China competition.

And in looking at these emerging technologies, specifically biotechnology, it became very clear the blueprint that we were seeing is very similar to what China has used in the past for its telecommunications development.

And so we started to just really dig into policies, to programs, to public disclosures of financial documents, to really start to go in with an open mind and say, okay, what do we have here, what are we dealing with here?

And it became very clear that this was a very, very different entity, just the depth and breadth. And in my written testimony, as well as the paper I can supply to the committee, we really outline some of those ties.

And it really comes back I think to one of the statements that I make, is that these -- just because they say they are a company or a university or even a court doesn't mean they function in the same way.

And so we just really wanted to highlight the research that is going on as well.

Mr. Luetkemeyer. Free speech is a wonderful thing, isn't it?

Ms. Puglisi. It is a very wonderful thing.

Mr. Luetkemeyer. We are going to fight to protect it.

Ms. Puglisi. Thank you.

Mr. Luetkemeyer. Ms. Goldenziel, one of the things I want to ask you about here is you are very involved with regards to the legal stuff. You talked about trifecta of warfare: legal, public opinion, and media.

One of the ways to me -- Mr. Barr and I, we sit on the Financial Services Committee, and one of the things that we always look for here on this committee is how we can curtail the investment of money into China either through the companies that they set up or direct investment, with our companies setting up their own companies over there.

How do you suggest we curtail that so that we can not help them be bigger and better and help their economy grow?

You talked about the warfare, and you listed the media and public opinion. How do we get the message out that it is not smart, it is not good business, it is not in our best interest to invest in China and help them grow their economy?

Ms. Goldenziel. Thank you, Congressman, for that question.

I think there are two ways.

First of all, the work of the CFIUS committee has been excellent in this regard. And Congress has created new legislation relatively recently and they have promulgated new rules relatively recently on both inbound and outbound investment into the U.S.

And we need to keep monitoring this, refining this to make sure those laws are working, first of all; and, secondly, to ensure they are protecting the right things; and, thirdly, to make sure they are not stifling innovation too much into our economy.

It is a difficult balance to curtail investment while not stifling innovation and the free market economy in the United States. I have been involved in a lot of those

conversations as well.

And then, secondly, I think the committee can play a great role in education, education about what is going on with PRC involvement in U.S. courts.

We have taken to calling it recently in the military -- this is a new term for me -- but the U.S. and some of its allies and partners are starting to use the term ICAD, illegal, coercive, aggressive, and deceptive behavior.

And I think this term encompasses all of the actions that we are talking about today that the PRC is taking in U.S. courts and in the U.S. legal system.

And we can raise awareness of all of these behaviors that can empower litigants to protect their own rights, investors to make better decisions, and the courts to incorporate real evidence of PRC legal warfare behavior when making their judicial decisions.

Mr. Luetkemeyer. Very good.

My time has expired. Thank you very much.

Thank you for your patience, Mr. Chairman.

Chairman Moolenaar. Thank you.

Representative Castor.

Ms. Castor. Well, thank you, Mr. Chairman and Ranking Member, for organizing this very important hearing. The testimony has been very insightful.

And, Ms. Puglisi, I really admire your courage in speaking out and speaking the truth.

Back home in Tampa, the University of South Florida has recently organized the Global National Security Institute, headed by the former head of U.S. Central Command, retired General Frank McKenzie. They recently held a summit on transnational repression by the CCP, including how the CCP tries to shape academic discourse by

intimidation, intimidating scientists and academics.

And there are a number of universities that have been victim to China's lawfare tactics, such as the cease and desist letters we have discussed today, lawsuits related to their Chinese-focused research.

Mr. Jaffer, you recommend to us that we need to think about incentives and protections for researchers and scholars.

Can you go into greater detail on that, on what we can do to protect those American researchers without being bogged down by meritless lawsuits so they are stymied in getting the information they need?

Mr. Jaffer. Sure. Thank you, Congresswoman Castor.

And I think the work that General McKenzie is doing down in Tampa is really important and great in calling out the threat that China is posing to our Nation.

One idea that we have that we might be able to think about is we might provide monetary resources for these researchers and scholars in the form of resources from the sanctions we impose on China.

So, for example, if your information is used for the U.S. Government to make a decision to move forward on sanctions, to put a company on the 1260-H list, put them on the Entity List or the like, you can seek access to some of those resources that we have collected.

We do this in other contexts. It is an opportunity then. We are not paying the bill. The Chinese Government, the Chinese companies are footing the bill for the researchers doing the work. It would demonstrate that you can't just go after our researchers, we are actually going to give them the benefit of the work they have done to call you out.

Ms. Castor. Dr. Goldenziel, thank you so much for your work.

Let's also talk about what the PRC is doing with their own laws. Hong Kong's recent national security law doesn't just apply in Hong Kong. It claims to apply everywhere, creating a global crime of pro-democracy advocacy.

What is going on?

Ms. Goldenziel. The PRC has sought to repress speech that is pro-democratic within the U.S., as we have been talking about today, suppressing freedom of speech rights within the U.S. itself.

Probably the most concerning case to me is an indictment that was brought by the Department of Justice against a Zoom executive in 2020 for shutting down meetings on Zoom attended by people within the United States regarding the Tiananmen Square massacres. And he also gave that data to -- their personal data back to Zoom.

And that is extremely concerning in itself, but I don't know how much more of that is going on within the United States.

Ms. Castor. Well, are you familiar with the letter from the Hong Kong police to Wix.com? That is an Israeli web hosting provider. The CCP threatened to prosecute Wix if it didn't remove a pro-democracy website that was operated by overseas Hong Kong activists. That is to say people located outside of China.

So this sounds familiar to you as well?

Ms. Goldenziel. Absolutely, yes. I have seen that. And it is disturbing and somewhat alarming that Wix took down the website and said it was an error that it was there in the first place.

Ms. Castor. I think that is completely unacceptable.

And then China thinks its own laws can apply everywhere in the world. This is not okay.

And it is not just private litigants that are facing this challenge. In fact, on

multiple occasions this committee's own investigators have been told that documents can't be provided under PRC law, specifically its data security and national security laws.

We are not going to be intimidated here. But what else do you advise this committee?

Ms. Goldenziel. I think that the committee can continue to really raise awareness about these issues. And I think Mr. Jaffer's suggestions for protecting those who have been affected by the PRC's actions are really excellent ones. So I would refer to his written testimony and mine.

I will add that I have not been immune to this either and been advised to increase cybersecurity protections around my house today, and so I did.

Ms. Castor. Thank you very much. I yield back.

Chairman Moolenaar. Thank you.

Representative Steel.

Mrs. Steel. Thank you, Mr. Chairman and Ranking Member Krishnamoorthi, for holding this hearing on how the CCP abuses the law to silence critics.

I am on five different committees, select committee on China, Ways and Means. And then we handle trade. And then the Fed Commission on China. We just had a meeting yesterday. And the AI Task Force and Education. You name it.

China is the greatest threat in the whole world, and they never really follow the law.

And another thing is more Americans are detained by the CCP than anywhere else in the world. And one of my constituents was wrongfully detained in a China prison for nearly two decades and just returned home this week.

And Pastor Lin from Garden Grove was in China helping build a church. Of course, they are watching it very closely. They said they have religious freedom, but

they are watching how we are working and how we try to work on the church.

He was arrested and received a harsh sentence for peacefully spreading the gospel. After nearly 20 years, Mr. Lin will finally get to see his family, and the first time he will get an opportunity to meet his grandson that he never met, now 7-year-old. And I am glad that he is coming back, because his daughter is suffering with cancer, before he lost her.

I am hopeful that shining more light on Communist authorities falsely detaining innocent people will help bring justice to those already in prison and prevent future detainment.

The CCP is spreading repression across the world, and some of those countries, actually they are acting like they are little brothers and they are following. It is like Vietnam, North Korea, and other countries. And we really need religious freedoms, and we really have to work on those, and those detainees have to be really released.

And as we speak, the OECD is trying to implement new global taxes. We are almost laughing because China never practices fair game.

So we always worry about how China is going to play the game with us. We have two right now that we call Pillar One, Pillar Two digital taxes and then global minimum taxes. We don't even know. Both of them are not implemented, and we are watching very closely and how we are going to help our industries.

So, Ms. Puglisi, you mentioned that we must look beyond traditional trade remedies, that it was not even working, such as export controls and tariffs. Tariffs are really good to implement, but at the same time our consumers have to pay for it.

Can you share more on this, how the CCP avoids paying tariffs? And we all know how they are doing it, use third countries to get around the rule, that they are taking their labels off and putting other countries' labels.

So could you tell us why is it important to have strong digital trade laws to protect data on other technologies that we have been talking about at the AI Task Force? So how are we going to implement this?

Ms. Puglisi. Thank you very much for your question.

The reference to the needing different trade and different mitigation tools especially is really related to the emerging technologies, because in these areas a lot of times there isn't a tradable good yet.

It is research. It is ideas. It is technological know-how. It is the tools of discovery. And so our current mitigation tools are not designed for that early in the development cycle.

And also, as we have heard here today, it is very -- not easy. But we see these entities going in these very, very narrow silos. And that is how our laws are designed, because we are a rules-based, laws-based system.

And so we really need tools, policies, laws that address the entire system that is holistic because it is something that we have not dealt with before.

RPTR WARREN

EDTR ROSEN

[10:18 a.m.]

Mrs. Steel. You have written a lot on innovation and research and how China creates an unequal playing field.

I also sit on the AI Task Force, as I said, hear from everyone that is R&D how they worry about the CCP stealing, because for them stealing is cheaper and faster

Their IP and technologies, this is really critical, and we have the policies put to innovation. You know what? We are so much behind, and we are not really investing those money in this country right now.

So what are our biggest AI and R&D vulnerabilities?

Ms. Puglisi. Yes, thank you.

Well, China really views technology as a national asset, and it has put in place these policies and programs to grow that base.

And I think it is twofold. We need to have new mitigation strategies that deal with this very holistic system, because it is very difficult to, as we mentioned, separate out military, civilian, public, and private. And we need to invest in our own innovation base to grow, especially in these emerging technologies.

And that was actually one of the drivers for this particular paper, is looking at, okay, what does it mean since biology and biotechnology in the future is going to touch on so many different areas? What does it mean to be able to compete in those areas? And so, really investing in that innovation base.

Mrs. Steel. Thank you for all the witnesses coming up. I learned a lot.

I yield back.

Ms. Puglisi. Thank you very much.

Chairman Moolenaar. Thank you.

Representative Auchincloss.

Mr. Auchincloss. Chairman, I appreciate the important hearing.

Ms. Puglisi, it is evident why China doesn't like your research. I would be interested for your thoughts. And I will grant that they may be somewhat speculative, but I would be interested for your thoughts on why CSET is not defending you.

Ms. Puglisi. Thank you very much.

Yes, I have a wide body of research that is focused on China's tech acquisition strategies.

I can't really -- I don't understand why that is the case.

Mr. Auchincloss. And you say in your testimony that they had represented to you that they would defend you.

Ms. Puglisi. In my testimony, I talk about Georgetown University via CSET, and I believe there has been a bipartisan effort of the committee to reach out to Georgetown, but we have not received any support yet.

Mr. Auchincloss. Is it their common practice to indemnify their researchers if they are facing these kinds of lawsuits and lawfare?

Ms. Puglisi. I believe so.

Mr. Auchincloss. And have any of the faculty at CSET or elsewhere intimated to you why they would be reluctant? You made clear that you had peer review, you had a fact-check.

Ms. Puglisi. I have not heard from anyone from CSET.

Mr. Auchincloss. Do you have an opinion as to what the recalcitrance is?

Ms. Puglisi. I really don't want to speculate on that.

Mr. Auchincloss. Well, I --

Ms. Puglisi. It is hard to understand for academic freedom.

Mr. Auchincloss. It is incredibly chilling for academic speech, I would imagine.

Do you have a sense that other researchers pursuing your vein of inquiry, or others, are less willing to do so because of what has happened to you?

Ms. Puglisi. I believe that is the case, I think, and I go into more depth in this in my written testimony.

Mr. Auchincloss. Yes.

Ms. Puglisi. But, you know, that the whole idea of what is scholarship, and almost an unwillingness to speak out, that being taking a more softer approach is seen as more mainstream, as opposed to highlighting these are the actions and tactics of authoritarian dictatorship, right?

And it is not -- two things -- and I say this a lot -- two things can be true at the same time.

Mr. Auchincloss. Yeah.

Ms. Puglisi. We can encourage collaboration and dialogue, but at the same time, highlight those areas. And we have heard today not only my case but violations against human rights, the theft of technology, the exploitation of the openness of our laboratories, of our universities.

Mr. Auchincloss. Absolutely.

Ms. Puglisi. And that has all been very well-documented.

Mr. Auchincloss. I represent a big chunk of eastern Massachusetts, home to some of the best research institutions and academic medical centers in the world. And I totally agree with you about two things can be true at the same time.

We can vigorously pursue and defend international collaboration on science and recognize it is a positive sum endeavor, and also, absolutely reject any -- any chilling of

speech or infringements upon the freedom of faculty to pursue truth as opposed to the comfortable opinion, right?

Ms. Puglisi. Yes.

Mr. Auchincloss. Dr. Goldenziel, I read with interest your article in Forbes about the Coast Guard and would welcome in this last 90 seconds your opinion on Order No. 3 from the CCP which empowers the Chinese Coast Guard to arrest and detain any foreigners who engage in an illegal violation in waters under China's jurisdiction for 30 to 60 days without trial.

And the law does not define waters under Chinese jurisdiction, although I imagine it is different than our definition of waters under Chinese jurisdiction.

How do you think this impacts other countries, the Philippines, of course, who are trying to legally fish?

Ms. Goldenziel. Thank you, Congressman, for that question, which is close to my heart.

China does not define waters under Chinese jurisdiction within that law. It has defined elsewhere in its statements waters under Chinese jurisdiction to include the West Philippines Sea, to include the Taiwan Strait, probably to include anything within the nine-dash line which accompanies -- which covers about 80 percent of the South China Sea.

Mr. Auchincloss. They want the South China Sea to be a Chinese land.

Ms. Goldenziel. Yeah. They also want much of the East China Sea to be theirs, as well, and are currently harassing Japan.

So this is a threat, and it is certainly a threat our allies in that region are very concerned about, their personnel now being arrested and China using the veneer of legitimacy of that law to do so.

Mr. Auchincloss. So what can Congress do to support the Coast Guard in pushing back on this? Because the Coast Guard seems to be our best asset here.

Ms. Goldenziel. The Coast Guard, possibly, and also, we can bring other assets to the -- military assets to the region, as well.

Without wanting to speculate too far in this forum, I will say that Admiral Paparo, the commander of the U.S. Indo-Pacific Command, has said that it is not unthinkable. For example, it is quite possible that U.S. Forces could accompany Philippines personnel on their resupplies at Second Thomas Shoal.

Mr. Auchincloss. I appreciate it.

Ms. Goldenziel. Thank you.

Chairman Moolenaar. Thank you.

Represent Hinson.

Mrs. Hinson. Thank you, Mr. Chairman. And thank you for holding this important hearing.

Thank you to our witnesses for having the courage to come out and speak about these things.

We know the CCP has really exploited every single legal tool at its disposal. They are trying to cheat and bypass our laws. They want to erode our values of free trade and free speech, and I think we do need to be calling that out because it is not just happening here in the United States. It is happening around the world.

And in China, the line between privately owned companies and state-owned companies is -- it is not just blurred, it is virtually nonexistent, right? I think we all know that.

And the CCP continues to exert really tight control over its private sector. They are, in essence, a puppet master. And, increasingly, they are exporting this model

globally through laws like their anti-foreign sanctions law and counterespionage law. Again, this all serves to advance the Chinese Communist Party's agenda abroad.

So they continue to leverage their legal system to their advantage, while exploiting loopholes in ours. We have seen this as frequent violations to our trade laws by the CCP. Many of those go not only undetected but also unpunished. That undermines both our economy, and the way I see it, it undermines our national security, as well.

So I introduced a bill that I think we are getting some traction on and certainly a lot of support for, but it is the Protecting American Industry and Labor from International Trade Crimes Act, which would enhance our ability to actually detect these crimes, investigate these crimes, and, most importantly, prosecute and go after these international trade violations.

So I think this would strengthen our enforcement capabilities here, but also continue to do what we are doing here, which is to expose the way that they are systematically undermining our trade laws through practices like we have already discussed here, transshipment and, again, forced labor violations that we are seeing out of them.

I want to highlight a recent article from the Global Times. This is the CCP's official media outlet, right, their propaganda machine. This reports that China has passed a resolution opposing a series of U.S. sanctions related to the Xinjiang Uyghur Autonomous Region, and it indicates that support will be provided to affected companies.

So, Mr. Chairman, I would like to submit this article for the record.

Chairman Moolenaar. Without objection, it will be added to the record.

[The information follows:]

***** COMMITTEE INSERT *****

Mrs. Hinson. Okay. I am just going to read one sentence here from this article.

"The resolution calls on local authorities to strongly object to the groundless sanctions and provide support for the sanctions-hit enterprises and associated industries to encourage them to flourish, as it is their just position and unshakeable duty."

So, Mr. Jaffer, what does the CCP mean here by providing support, it is their unshakeable duty to these companies that are subject to U.S. sanctions?

Mr. Jaffer. Yeah, these are companies, by the way, that are using forced labor for Muslim Uyghurs in Xinjiang that are essentially -- that genocide is being conducted again. So we have had now two administrations, the Trump administration and the Biden administration, that have called out this genocide. Of course, the NBA avoids it.

Muslim countries around the world, in Saudi Arabia, the Middle East, Pakistan, won't call it out. But we have called it out. And these are companies that use that forced labor, and now the Chinese Government is going to give them money to pay them off to continue to exploit forced labor in these prison camps, gulags, that they have got because that is their national policy.

Mrs. Hinson. Do you think that that support includes financial assistance to be able to challenge and sue the U.S. Government, to sue researchers, to go after people they see as a threat to this enterprise, which I would argue is a criminal and anti-American enterprise?

Mr. Jaffer. One hundred percent.

Mrs. Hinson. What additional measures would you say we could take? You know, I highlighted my bill. But we need to make sure that trade enforcement remains robust to counter these tactics. So how would you say we could really enhance what the United States is doing in this space?

Mr. Jaffer. Well, look, enhancing our ability to go after these trade crimes I think

is critical. It is important that we not treat these Chinese companies, these state-run, state-influenced companies as just another international company, another company trying to do business in the United States.

They are essentially arms of the state, and they are helping to enforce and carry out these policies, not just the repression in Xinjiang against the Muslim Uyghurs but in Tibet, in Hong Kong, around the globe, spreading that global repression, and working with our adversary nations, buying oil from Russia at the time that the U.S. has sanctioned them for the actions in Ukraine.

Mrs. Hinson. Well, if you look at the cartoonist here for this article that I submitted, it is a Russian cartoonist. So they are definitely working with our adversaries all over the world.

Ms. Puglisi, you state in your testimony, when China cannot win on facts or merit, it turns to threats and intimidation. It is seen clearly what is happening with TikTok, the legal actions of journalists who expose it as a tool for propaganda.

A significant part of this issue is because they can operate their proxy companies here in the U.S. without detection or disclosure there.

So what steps do you think we can take to enhance transparency requirements here?

Ms. Puglisi. Thank you very much for the question.

I think that is essential. We have to recognize that these entities don't function the same way that ours do. And that is the support that they have in China, as well as the support they have internationally.

And so, I think the first step is really recognizing that, because it is an unfair fight when our companies have to compete on the market by market terms and theirs do not. And that is everything, and we look at the policies and programs, especially for emerging

technologies that support these entities.

Mrs. Hinson. Thank you to our witnesses for, again, having the courage to come expose these malign practices. Appreciate you being here.

Thank you, Mr. Chairman.

Chairman Moolenaar. Thank you.

Representative Khanna.

Mr. Khanna. Thank you, Mr. Chairman.

Ms. Puglisi, I was very surprised to learn that Georgetown was not paying for your defense, and I am going to be seeing John Levin at Stanford who is going to be the new chairman. He was the chair of the economics department when I taught there. Next week he is getting inaugurated.

But I guess my question to you is, What can Stanford do or what could Georgetown do to protect your right to write? I don't just view this as a China issue. I view this as a freedom of speech issue.

Ms. Puglisi. Thank you for the question.

I believe, I mean, to hold up the indemnity clause would be a good start.

Mr. Khanna. Have you contacted, through Congress, Georgetown? If not, I am happy, if you want to talk offline, to reach out to Georgetown. And I am sure other Members would as well.

I mean, I think if you wrote this paper while you were at Georgetown, people are free to disagree with it. People are free to criticize it. But to sue you for an academic paper, that is just not how we do things in the United States of America.

Ms. Puglisi. Yes, thank you. I believe the committee has sent a letter, but I appreciate the support.

Mr. Khanna. Right. Well, I am fairly involved there, as well. So why don't you

afterwards, if you want to, just contact our office. And we will send something over, as well, because hopefully Georgetown will set the right precedent here.

And, I mean, there are broader policy issues. But I think our universities have to be at the front line of protecting our researchers and our scholars. And from everything I could tell from your paper, it was simply an academic work.

And that is how the marketplace of ideas works. If they think you are wrong, they can publish five things, saying you are wrong. But to sue you is absurd.

Ms. Puglisi. Uh-huh.

Mr. Khanna. And so, I appreciate your coming before the committee and sharing your story.

Dr. Goldenziel, let me ask you. We recently unanimously in the House passed a bill to restrict DJI's drone technology.

I was shocked to learn -- I think it was Representative Stefanik's bill -- I was shocked to learn that we are so dependent on this Chinese drone company where they are providing all of the emergency service drones, they are providing drones, some of them even to our military.

And I am hopeful that this bill that passed unanimously in the House or by voice vote is going to be part of the NDAA, the National Defense Authorization Act.

But how did we get in this position where we are dependent on Chinese drone companies? Chairman Rogers from HASC was just out with me in my district and did a hearing in Silicon Valley. We have got so many great drone technology companies here.

How did we end up in this position, and how do we correct it?

Ms. Goldenziel. Thank you for that question.

While I am not an expert in this matter, I can say that this conversation has been going on for a very long time.

My former colleague, Harry Wingo, who has now recently left NDU to become our deputy national cyber director, testified before Congress about this issue several years ago. And this conversation has been going on as long as I have been part of the Department of Defense, almost 9 years now.

So I think that this is a remnant of our overall economic engagement with China that, of course, we are now decoupling from. My question would be why it took so long for us to address this issue?

Mr. Khanna. Well, I agree with that. I mean, obviously, it was a failure that we had allowed ourselves to become this dependent.

And I don't want to sound alarmist, but you saw what happened with Hezbollah and Israel and the sensitivity of technology. I mean, why we would allow Chinese technology in their most sensitive areas just seems very naive.

And I would love to hear your thoughts just more generally on what we can do to ensure that we are supporting our own industrial base for this sensitive technology.

Ms. Goldenziel. I think one of the things that Congress can do is really to examine our supply chains.

I know there is concern within the Department of Defense, not speaking on their behalf, about our processes for government contracts not being sophisticated enough to be able to weed out Chinese companies' subsidiaries infiltrating our technological chains in a way that can -- technological supply chains in a way that could come back to bite us.

Thank you.

Chairman Moolenaar. Thank you.

Representative Newhouse.

Mr. Newhouse. Thank you, Mr. Chairman.

Let me say thank you to all three witnesses for being here. I salute your courage

on telling the truth and standing for what is right. You are helping us accomplish exactly what our committee's goals are, and that is to understand the threats that are posed by the CCP to the United States. So thank you very much.

I am going to start with you, Ms. Puglisi. You mentioned in your testimony that China is willing to use biology in ways that the West is not. As you know, we passed last week the Biosecure Act, with the help of this committee and the chairman, to address some of these ethical and national security concerns.

One factor that I also think needs to be addressed is the interplay between biosecurity and agricultural sciences, that China is purchasing American farmland, processing facilities, plant and animal genetic data, and so much more.

I would love to hear from you, if you could elaborate on how these two concepts, biosecurity and agricultural sciences, are interrelated, and perhaps express why you think China aspires to dominate in these two sectors.

Ms. Puglisi. Well, thank you very much for that question.

Yes, they are very interrelated. And I think it really shows the importance that China places on growing its biotech capabilities, and that is across a wide range of areas.

I think we automatically think of health as a key area. And that, of course, is very important. But food security is super -- is very important. It is both for internal stability, as well as for economics.

And so, that is actually a -- being able to create GMOs or actually grow its agricultural capabilities has been highlighted as both a strategic emerging industry and part of what they call megaprojects of some of their policies.

And I think it really relates back to the earlier question about dependencies and those areas where national security and the market kind of separate.

And where those areas that, do we want key parts of our not only supply chains,

but the kinds of things that we rely on, such as medicines, food -- we hear about drones -- to be reliant on a strategic competitor, and to really focus on, because those are the areas. And when we see how China has set up its policies and programs, it creates those dependencies.

It goes in, and it creates those areas where because it is cheaper. And so, we have to follow and look at where those things that not necessarily are the lowest price but the best value for the country.

Mr. Newhouse. Yes, I totally agree. Thank you.

Ms. Puglisi. Thank you.

Mr. Newhouse. And, Dr. Goldenziel, as you know, China has, I guess you could say, seems intent and certainly they want the ability to invade or blockade Taiwan. We perhaps see this coming sooner than later. Numerous war games exercise demonstrate the profound military, economic, and social implications for the entire world, including tremendous loss of life.

My question for you is, what is the one thing, if there is one thing, that we as a committee should be aware of, in your perspective, when it comes to China's use of cyber warfare with Taiwan during a potential invasion or China's illegal island-building operations in the South and the East China Seas?

Ms. Goldenziel. Thank you, Congressman, for the question.

I am going to defer to the experts on our cyber, on cyber capabilities and cyber concerns in Taiwan, because they are a little beyond what I am able to discuss.

But in terms of what this committee can do to assist in the South and East China Seas, I think that, first of all, raising awareness of the situation, raising awareness of the rights of our partners and allies to empower them to engage in the information environment is extremely important.

China is really attempting to set a legal narrative out there about the legitimacy -- air quotes -- legitimacy, their conception of legitimacy of their own claims in the South and East China Seas.

And in some markets, some media markets, they are winning because they dominate the airwaves. And I am not just talking about Russia. I am talking about they have a lot of control over the media in our partner and ally countries.

And if our allies and partners, if democratic nations do not get the truth out there, do not get our view of the rule-based international order out there, and do not come to agreements on that with our partners and allies, China's narrative will win.

And I am very deeply concerned about that based on my own research. They are setting the context for what they may do militarily in Taiwan and what they already are doing militarily in the South and East China Seas.

Mr. Newhouse. We have to be careful of that narrative here in the United States as well.

Ms. Goldenziel. Yes.

Mr. Newhouse. Yeah, absolutely.

Well, my time has expired.

Thank you, Mr. Chairman. Appreciate it.

Chairman Moolenaar. Thank you.

Representative Brown.

Ms. Brown. Thank you, Mr. Chairman.

And I thank our witnesses for being here today.

Nearly every aspect of the Chinese national system, from media to business to the court system, is controlled on some level by the Chinese Communist Party.

Unlike in the United States, the Chinese people have no rights of free speech, fair

representation, or freedom from government repression.

However, this government-sponsored interference does not necessarily stop at China's borders. The Chinese Communist Party is apparently directing or encouraging Chinese firms to use the U.S. legal system to its advantage.

U.S. intellectual property advisor to China Mark Cohen said that, "The People's Republic of China is engaged in the use of legal tools to advance national technology, political and security interests typically with a goal of creating an unbalanced playing field with foreigners." And that is a direct quote.

That is why legislation such as the CHIPS and Science Act was so essential in leveling the playing field against China and putting the U.S. on firm footing with regard to technology on the international stage.

So to any of our witnesses, could you speak to the CCP's pressure on U.S. firms and companies to do their bidding in China and the U.S. and around the world? And how is the CCP using our legal system to accomplish this?

Mr. Jaffer. Thanks, Congresswoman Brown.

There are a number of tools that China uses to exploit and intimidate our companies, then use our courts.

First, when you go to China, you are required to enter into joint ventures with Chinese companies. You are required to bring your intellectual property and put it in China.

U.S. companies see China, for good reason, as a large market. So they want to take advantage of it. And China will exploit that market power to get U.S. companies to do things they wouldn't otherwise do, and that can create huge challenges when you are operating there.

Then once you are subject to their jurisdiction and their laws, they use their laws

against you. You can't really effectively bring litigation to Chinese courts and the like.

Then you come back over here, and they are using our courts to go after our researchers when they call out these type of laws in China, right? They talk about the cybersecurity threats against our scholars.

So you are exactly right. They have figured out how to use our systems of the rule of law and make it a system of rule by law where they are using the laws and modifying the laws to go after us and our companies, and then leveraging our extended markets, the NBA and the like, right, to go there and take advantage of it, and then forcing them to do things they wouldn't otherwise do, suppress researchers, intimidate Georgetown, intimidate the NBA, and the like. And we are letting them do this.

Ms. Brown. So thank you for that. And it leads to my next question. And any of our witnesses are welcome to answer this one as well.

But how has the CCP's litigation impacted our judicial system in terms of overloading it, maybe on purpose and by design, and overall generating uncertainty?

Ms. Goldenziel. It is certainly a concern about the PRC overloading our judicial system with perhaps frivolous lawsuits. Some of these lawsuits certainly seem to me to be ridiculous. Suing researchers for libel, for exercising their free speech rights, is of particular concern to me.

I think it is also important to note that the U.S. is widely known for having the best legal system in the world, the best courts in the world. We may disagree with their opinions but overall -- I am a member of the bar. I believe in the system.

And we encourage other companies to use our courts. Other companies want to use our courts precisely for that reason, because they are the best in the world, because they have predictability and stability in ways that Chinese courts do not.

Chinese companies like suing in the United States for this reason. As Ranking

Member Krishnamoorthi recognized, they believe U.S. courts, for the most part, are fair.

So there is a balance between what Congress would need to do to address this in order to preserve due process rights and to protect the American people's constitutional rights and protect them from frivolous lawsuits.

I think that Professor Zambrano's anti-SLAPP legislation that he proposes in his written testimony is an excellent example of striking this balance properly.

Ms. Brown. Thank you.

I also want to take a moment to mention the topic which was raised by Deputy Attorney General Lisa Monaco yesterday.

She said the CCP is, and I quote, "using AI to generate and push out messaging to interfere with American society, our democratic system, and especially our upcoming national election. This is deeply troubling."

With regard to AI election interference more broadly, she also stated the United States, quote, "exposed how our adversary's campaign to literally target specific demographics, specific blocks of voters," end quote, with deceptive information.

Along with many of my colleagues, I have been raising the alarm bells on this destabilizing activity from Russia, Iran, and the CCP to sow discord in the United States and interfere with our most fundamental and critical component of our system of democratic government, our elections.

Earlier this year, I introduced legislation, the Securing Elections From AI Deception Act, to prohibit the use of artificial intelligence to deprive or defraud individuals of their right to vote and require disclaimers on AI-generated election content.

As I said before, this threat is no longer theoretical. I also recently sent a letter to the FEC, urging them to clarify Federal law prohibiting fraudulent misrepresentation applies to deceptive AI-generated political campaign communication.

This threat could not be more real or more urgent. We need to protect our country from foreign adversaries which seek to do us harm by causing chaos, destabilization, and undermining our free and open society which they are threatened by.

I look forward to working with this committee to address this.

Thank you for indulging me, Mr. Chairman.

And I thank the witnesses for their thoughtful answers and look forward to continuing the conversation.

Thank you.

Chairman Moolenaar. Thank you.

Representative Stevens.

Ms. Stevens. Democrats asking lots of questions.

Thank you, Mr. Chair. Appreciate you and appreciate this very important panel.

Look, I struggle with this topic. As a Representative from southeast Michigan, manufacturing base, I second the comments of my colleague from Ohio that we made great strides in investing in the production of semiconductors, of chips, with the CHIPS and Science Act that was passed last term.

But I do wonder about how we can strengthen our role as lawmakers, policymakers, and overseers of our Federal Government in playing a role that companies can't play, because a lot of times what happens is, and when I talk to my manufacturers, they are overseas, they are saying it is all going great, that they have got a presence in China, and it is working for them, and even sometimes they are saying you should come over and see what is going on.

And it is not to be disrespectful. But what has become apparent in the work of our committee is that we remain at the -- at sort of the behest of a private sector that doesn't necessarily have all of the mechanisms within our government to look out for a

greater interest, which is around national security, or if the tide rolls out with what you had discussed, Dr. Goldenziel, around the lawfare that is taking place.

So all right. If laws get exploited and then a company has a problem, they are getting dinged, then they will come to us. And we certainly are very well-versed on unfair trade practices and illegal dumping.

But what I have heard from you today, which I think is so important, is that we need to be looking out to the future. We need to be really seeing where these chess pieces are moving and how we can strengthen our role.

And I know that that is slightly ambiguous, but we have got to do a better job of bidding for the national security interests and the overall economic security interests.

Just because we have instances of a relationship working between a private business and China for now -- and we have witnessed this on autos, General Motors selling lots into China, and then all of a sudden BYD state subsidized because of some of the challenges that the Chinese Government is having with their real estate sector.

And then, Dr. Goldenziel, the AUKUS agreement between Australia, the United Kingdom, and the U.S., as we know, aims to bolster security cooperation in the Indo-Pacific region. And considering Chinese history, as we have long discussed now in this hearing about legal warfare, such as using maritime militia vessels and domestic laws like the Coast Guard law, as has been mentioned, to assert territorial claims in the South and East China Seas, how are you seeing that the PRC might exploit its legal system to undermine or challenge AUKUS-related initiatives, particularly vis-à-vis Australia, which is in a different part of the world than the U.S. and the U.K. and just got to sometimes tread more carefully?

And what preventative strategies should be adopted to strengthen the alliance against such legal disruptions?

Ms. Goldenziel. Thank you, Congresswoman.

The Chinese attempt to undermine AUKUS is really part of an overall strategy to undermine our alliances overall. We are seeing similar tactics with just about every alliance we have in the Indo-Pacific region.

And what they are doing is flipping the concept on its head, claiming that our alliances are militarization of the region and interfering with a principle of noninterference. That is using a term from the U.N. charter in order to justify their legal claims.

They are promoting this narrative in the media, and also in international forums, and they are expressing that the very existence of AUKUS and other alliances could heighten military tensions and lead to an arms race. They are particularly citing our agreements regarding nuclear submarines, and I would refer to experts for the details on that.

Ms. Stevens. Okay. Thank you. Thank you for that.

And thank you all for your testimonies. I know this was a robust hearing. This was a phenomenal hearing.

So I appreciate that, Mr. Chair.

Yield back.

Chairman Moolenaar. Thank you, yes.

And I also want to thank all of our witnesses today. Very much appreciate your testimony.

Questions for the record are due one week from today.

And without objection, the committee hearing is adjourned.

[Whereupon, at 10:55 a.m., the committee was adjourned.]

