Testimony of Hon. Nazak Nikakhtar

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Testimony Before the Senate Special Committee on Aging[1]

"Behind the Label: Foreign Ownership and Control in America's Drug Supply Chain"

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Chairman Scott, Ranking Member Gillibrand, and members of the Committee, thank you for hosting this critically important hearing. My name is Nazak Nikakhtar. I am an international trade and national security attorney, economist, former Georgetown University Law School adjunct professor, former civil servant in the U.S. Government, and former Assistant Secretary[2] and Under Secretary[3] at the U.S. Department of Commerce.

I spent the past 25 years of my career focused on U.S.-China economic competition and national security issues from the vantage points of America and our allies. My focus today is on the legal tools that we need to better deploy in winning America's biotechnology race against the People's Republic of China.

Chinese Advancement in Biotechnology

The threats posed by China's growth in biotechnology fueled by intellectual property ("IP") theft and misappropriation, massive state subsidies, and a distorted economy that consistently underprices the rest of the world is well-established, so I will not spend time on that. Yet these realities provide the context in which I will discuss our legal shortcomings and solutions.

To be clear, China's growth in biotechnology is dwarfing America's (and the rest of the world's) presence in this sector. In 2024 – 2025, China surpassed the United States in biotechnology innovation, deal value, and clinical output.[4] At present, China is neck-in-neck with the United States in emerging biotechnology sciences (e.g., precision medicine, brain-

[1] The views and opinions expressed in this testimony are mine only and do not represent the views of Wiley Rein, LLP or any of the firm's clients.

[2] Unanimously confirmed in 2018.

[3] Performing the non-exclusive functions and duties while nominated (2019).

[4] Aaron Blotnick, *The Year China Surpassed the USA in Biotech Innovation, Deal Value, and Clinical Output*, SynBioBeta (Jan. 22, 2026), *available at* https://www.synbiobeta.com/read/the-year-china-surpassed-the-usa-in-biotech-innovation-deal-value-and-clinical-output.

computer interfaces, and biomanufacturing),[5] competing at costs that are roughly one-third of the United States' costs (e.g., biopharma drug discovery programs).[6]

For every $100,000 in U.S. biotechnology research and development ("R&D") spending, America has one scientist and China has three.[7] China's investment in biotechnology also outpaces the United States whether measured by pharmaceutical deals, clinical trial activity or licensing deals.[8] Plus, America fuels China's biotechnology growth through supply chain dependence, outbound capital investments, and IP transfers through licensing deals and other corporate agreements.[9]

Additionally, China dominates STEM talent volume, producing around 4 million STEM graduates and over 70,000 STEM PhDs annually (compared to approximately 40,000 in the United States),[10] and China graduates roughly ten times more engineers than the United States.[11] Further, China has a larger population, more schools, and more students being educated abroad and working abroad. Most of them return to China (whether at will or by force) to grow the country's lead.[12]

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[5] *U.S. vs. China: Government Action on Key NSCEB Recommendations*, Nat'l Sec. Comm'n on Emerging Biotechnology, *available at* https://www.biotech.senate.gov/us-vs-china-govt-action-on-nsceb-recs/.

[6] Yanzhong Huang, *A Biopharmaceutical Superpower: China's Rise, Its Limits, and What Comes Next*, Ctr. for Int'l Relations & Sustainable Dev., *available at* https://cirsd.org/horizon-article/a-biopharmaceutical-superpower-chinas-rise-its-limits-and-what-comes-next/.

[7] *New Study: China Biopharma Gains Global Ground*, We Work for Health (Mar. 16, 2026), *available at* https://www.weworkforhealth.org/post/new-study-china-biopharma-gains-global-ground.

[8] Aaron Blotnick, *The Year China Surpassed the USA in Biotech Innovation, Deal Value, and Clinical Output*, SynBioBeta (Jan. 22, 2026), *available at* https://www.synbiobeta.com/read/the-year-china-surpassed-the-usa-in-biotech-innovation-deal-value-and-clinical-output.

[9] For example, roughly 79% of U.S. pharmaceutical companies utilize Chinese contract manufacturing organizations ("CMOs") for drug development/production. *See* Erin Rosenbach, et al., *Critical and Emerging Technologies Index*, Belfer Ctr. for Sci. & Int'l Affairs, Harvard Kennedy Sch. (June 5, 2025), *available at* https://www.belfercenter.org/critical-emerging-tech-index. While American firms invested $153 billion in pharmaceutical and biotechnology R&D in 2024, which is over half of the global total, China's industrial policies (including subsidies) enabled Chinese biotechnology firms to run clinical trials twice as fast and at a fraction of the costs of those in the United States. This has resulted in a massive surge in Western capital flowing into China. *See* Yeon Woo Lee, *The next tech war? Why biotech may become a new US-China battleground*, South China Morning Post (June 2, 2026), *available at* https://www.scmp.com/economy/global-economy/article/3355700/next-tech-war-why-biotech-may-become-new-us-china-battleground.

[10] Remco Zwetsloot, et al., *China is Fast Outpacing U.S. STEM PhD Growth*, Ctr. for Sec. & Emerging Tech., Georgetown Univ. (Aug. 2021), *available at* https://cset.georgetown.edu/publication/china-is-fast-outpacing-u-s-stem-phd-growth/.

[11] Paul Eremenko & Ashish Srivastava, *China graduates 1.3 million engineers per year, versus just 130,000 in the U.S. We need AI to bridge the gap*, Fortune (Jan. 14, 2026), *available at* https://fortune.com/2026/01/14/china-graduates-1-3-million-engineers-per-year-us-shortage-ai-tools/.

[12] Yanzhong Huang, *A Biopharmaceutical Superpower: China's Rise, Its Limits, and What Comes Next*, Ctr. for Int'l Relations & Sustainable Dev., *available at* https://cirsd.org/horizon-article/a-biopharmaceutical-superpower-chinas-rise-its-limits-and-what-comes-next/ (referencing China's talent repatriation programs in biotech).

It should also be underscored that the Chinese government controls most of China's revenue and wealth whereas in the United States, the private sector does. With the second largest gross domestic product ("GDP") in the world,[13] this means that the Chinese government has more capital to fuel the growth of its state champions through subsidies than United States could ever provide in grants and loans through U.S. Government programs.

And then there is the well-known Chinese program of state-sponsored IP *theft*, where Chinese entities acquire American IP for virtually nothing after our companies spend billions in R&D and product development.[14] Plus, the fact that Chinese companies conduct clinical trials without the human health and welfare safeguards that we have in the United States and the West is another way that China's biotechnology sector is growing at a pace that dwarfs ours and other countries.

I understand that most individuals testifying before Congress argue that that America needs to take its eyes off China and instead invest in its own educational system, R&D and corporate growth. Yes, we do need to invest more, promote innovation, advance R&D, and enable our corporations to grow more quickly, but we cannot do so by simultaneously exporting our technology and capital to China and continuing to use China as our manufacturing hub – this would be at expense of America's interests. Maintaining this current trajectory with China is a mistake, especially when China is making indigenous investments at a much larger and faster scale, while we are fueling China's growth even more by transferring U.S. technology, capital, manufacturing output, and know-how to it. Quantitative data show that China's growth in biotechnology innovation and manufacturing mirrors America's decline. In other words, we are ceding our own capabilities to China. This is shortsighted, and we need to look no further than what happened to the U.S. semiconductor, GPU, battery, autos, critical minerals, and robotics sectors as examples of what is yet to come.

Recommendations

The hard truth is that America needs to limit its entanglement with China's biotechnology sector before China's misuse and exploitation of American capital, supply chains, IP, and trust undermine our competitive interests to a permanently detrimental point. I provide several recommendations that constitute concrete steps that are needed to assure America's technological resilience, leadership, and overall success. Anything less will cede the competition to China, given China's meteoric rise.

First, most Chinese biotechnology investments in the United States seek to acquire American IP and sensitive personal data and/or to disrupt the domestic market through market

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[13] GDP by Country (2026) – IMF, Worldometer, *available at* https://www.worldometers.info/gdp/gdp-by-country/.

[14] *Findings of the Investigation into China's Act, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation Under Section 301 of the Trade Act of 1974*, Off. of the U.S. Trade Rep. (Mar. 22, 2018), *available at* https://ustr.gov/sites/default/files/Section%20301%20FINAL.PDF.

manipulation. To the extent transactions are examined by the U.S. Government for national security risks where the Committee on Foreign Investment in the United States ("CFIUS") jurisdiction exists, many are cleared with mitigation measures. But almost always, violations of mitigation measures will not be detected by the Government. This is a risk we cannot afford to take with China and other foreign adversaries. Whenever investments by China and other foreign adversaries come under CFIUS's existing legal jurisdiction for national security review, we need to institute a presumption of denial for each foreign adversary.[15] I have never encountered any scenario where a Chinese investment in a U.S. biotechnology company did not pose a serious risk of being misused by the Chinese Communist Party ("CCP") to effectuate its Military-Civil fusion strategy to America's detriment.[16]

Second, given that CFIUS jurisdiction falls short by not covering most greenfield investments and joint ventures in the United States, legal jurisdiction needs to be extended by Congress through the passage of a FIRRMA[17] 2.0 and/or the President needs to issue an IEEPA[18]-based Executive Order that closes the legal gap as it pertains to foreign adversaries. Time is running out and the gaps remain wide open today, enabling predatory FDI to occur undetected and unaddressed.

Third, we need to impose broader export controls on emerging and foundational biotechnologies and biomaterials that are exported to China and other adversaries for pharmaceutical manufacturing and trials. Additionally, we need to impose export controls on U.S. exports of genetic, cell, and other forms of biological data. We should impose controls on data by either defining them as goods subject to the EAR[19] or by controlling the software that enables sensitive data to flow to our adversaries using the EAR. Currently, without these controls, biological materials and data flow virtually unrestricted to China, the CCP, and the People's Liberation Army.

Fourth, we need to address the fact that Chinese investments in United States and U.S. investments in Chinese biotechnology occur significantly through corporate licensing deals and venture capital.[20] While the Biotech Investment National Security Act of 2026 (or "BINSA")[21] is

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[15] Sectors may be designated by reference to NAICS codes (North American Industry Classification System).

[16] *Report on Biotechnology in the People's Republic of China's Military-Civil Fusion Strategy*, Int'l Sec. Advisory Bd. (Oct. 2024), *available at* https://www.state.gov/wp-content/uploads/2024/12/ISAB-Report-on-Biotechnology-in-the-PRC-MCF-Strategy_Final_Accessible.pdf.

[17] *Foreign Investment Risk Review Modernization Act of 2018* ("FIRRMA"), Pub. L. No. 115-232, subtit. A, tit. XVII, 132 Stat. 2173 (2018) (codified as amended at 50 U.S.C. § 4565), implemented by 31 C.F.R. pt. 800 *et seq.*

[18] *International Emergency Economic Powers Act* ("IEEPA"), Pub. L. No. 95-223, tit. II, 91 Stat. 1626, 1626-33 (1977) (codified as amended at 50 U.S.C. §§ 1701-1706).

[19] *Export Administration Regulations* ("EAR"), 15 C.F.R. ch. VII, subch. C (Parts 730-774).

[20] Recently, Chinese drugmakers have increasingly licensed programs to U.S. firms and funded partnerships, while U.S. lawmakers push to restrict these cross-border intellectual property transfers and capital transfers.

[21] *Biotech Investment National Security Act of 2026*, H.R. 9102, 119th Cong. (2026).

a positive step toward restricting U.S. capital flows to Chinese companies, it does not go far enough. What I have witnessed during my service in the Executive Branch over nearly a decade is that our Government does not regulate comprehensively to ban high-risk transactions when it has the legal authority to do so. My fear with BINSA is the same as with the Comprehensive Outbound Investment National Security Act of 2025 ("COINS Act")[22] – that, in implementation, the Executive Branch will limit some means of capital transfer but not others, enabling various forms of *legal circumvention*. The result will be no real curtailing of capital outflows. As such, we need comprehensive outbound investment bans for the biotechnology sectors in China and other adversary nations. Comprehensive bans minimize the opportunity for circumvention. Nuanced regulations do not.

Fifth, we need import prohibitions on biotechnology materials produced in China under Section 232 of the Trade Expansion Act of 1962, as amended,[23] IEEPA, Section 307 of the Tariff Act of 1930, as amended,[24] and the Uyghur Forced Labor Prevention Act,[25] given the health and safety risks these materials pose, and given China's prevalent human rights abuses, IP misappropriation, predatory economic practices, and potential to weaponize biotechnology to seriously harm the United States and the rest of the world.

My final point is this. With respect to anyone claiming that these recommendations will increase U.S. prices, that is a red herring. China's growth in the biotechnology industry is only a recent event. Prior to China's growth in this sector, the U.S. pharmaceutical industry faced economic pressures that stemmed from unrelated issues, for example, domestic regulatory hurdles. Relying on China to research and produce our drugs does not solve our competitiveness problem, it only adds to it.

The reality is that the more we offshore our R&D and production to China's markets, the more we will be substituting China's workforce and economic model in place of ours. In this way, we are undermining our own R&D base, educational system, innovation, population health, business viability, and strength of our values as Americans. We cannot continue relying on China's distorted predatory market instead of America's own manufacturing and innovation base. Doing so will accelerate the demise of industries, market, health, values, and technological leadership in America.

Thank you and I look forward to answering your questions.

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[22] *Comprehensive Outbound Investment National Security Act of 2025*, tit. LXXXV, National Defense Authorization Act for Fiscal Year 2026 (enacted Dec. 18, 2025).

[23] 19 U.S.C. § 1862.

[24] *Id.* § 1307.

[25] *Uyghur Forced Labor Prevention Act* ("UFLPA"), Pub. L. No. 117-78, 135 Stat. 1525 (2021) (codified as amended at 22 U.S.C. § 6901; amending the Tariff Act of 1930; enforced under 19 U.S.C. § 1307).