

# AMERICANS FOR FREE TRADE

December 20, 2023

The Honorable Ron Wyden  
Chairman  
Committee on Finance  
U.S. Senate  
Washington, DC 20510

The Honorable Mike Crapo  
Ranking Member  
Committee on Finance  
U.S. Senate  
Washington, DC 20510

The Honorable Jason Smith  
Chairman  
Committee on Ways and Means  
U.S. House of Representatives  
Washington, DC 20510

The Honorable Richard Neal  
Ranking Member  
Committee on Ways and Means  
U.S. House of Representatives  
Washington, DC 20510

## **RE: China Section 301 Tariffs Four-Year Review and Expiring Product Exclusions**

Dear Chairmen Wyden and Smith and Ranking Members Crapo and Neal:

On behalf of the undersigned members of Americans for Free Trade, we are writing to request that Congress exercise its Article I, Section 8 authority over trade matters and urge USTR to immediately conclude and release the results of its four-year statutory review of the Section 301 tariffs. USTR initiated this review on May 3, 2022. USTR has taken over a year and half to conduct the review, which has exacerbated the uncertainty around the future of the tariffs. We further urge Congress to demand that USTR provide an immediate extension for the limited China 301 [tariff exclusions](#) and [COVID exclusions](#), which are currently set to expire on December 31 – less than 20 days from now.

Our companies and associations joined together to form Americans for Free Trade in 2018. Our coalition represents every part of the U.S. economy including manufacturers, farmers and agribusinesses, retailers, technology companies, powersports, service suppliers, natural gas and oil companies, renewable energy companies, importers, exporters, and other supply chain stakeholders. Collectively, we employ tens of millions of Americans through our vast supply chains.

In the last five years, American importers, including members of our coalition, have paid more than [\\$198 billion](#) in section 301 tariffs on products imported from China. The cost of the tariffs has been born almost entirely by U.S. businesses and consumers<sup>1</sup>, and their continued imposition harms U.S. competitiveness and contributes to persistent inflation in our economy. At the same time, these harmful taxes have failed to change China's use of unfair trade practices relating to intellectual property rights, forced technology transfers, and innovation. As a result,

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<sup>1</sup> *Economic Impact of Section 232 and 301 Tariffs on U.S. Industries*, U.S. International Trade Commission (March 15, 2023).

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we have repeatedly called for the Administration to find a new path forward to address China's ongoing unfair trade practices. The tariffs should be strategically realigned to focus on the original intent of the Section 301 investigation, and USTR should seek alternate measures, including working with our allies, to achieve the necessary changes in China's behavior. But setting aside these views, we know that American importers need certainty with respect to the future of the tariffs, and this requires that USTR conclude its review expeditiously.

In May 2022, USTR initiated the first steps of the four-year review by inviting domestic stakeholders to comment whether they would like the 301 China tariffs to remain in place.<sup>2</sup> Based on that feedback but before inviting broader input from other stakeholders, USTR announced the continuance of the tariffs in September 2022.<sup>3</sup> It was not until the following month that USTR announced that it would open a broader stakeholder comment period in November 2022.<sup>4</sup> We believe USTR's decision to continue a trade action without seeking broader stakeholder input first is another example of USTR shirking its commitments to transparency as well as its obligations under the Administrative Procedure Act.

Further, it has been more than a year since USTR opened the public comment period in connection with its four-year review of the 301 tariffs. We recognize that there is no statutorily-imposed deadline for USTR to complete its review, but we also believe the current review period – which exceeds USTR's contemplation of any of the four tariff lists when they were imposed – has been excessive and the lack of clear guidance from USTR regarding the future of the tariffs has resulted in persistent uncertainty for U.S. businesses who plan months, and in some cases years, in advance. Given Congress's Article I, Section 8 authority over trade, and the Committees' oversight authority to ensure USTR carries out its duties appropriately, we urge Congress to insist that USTR conclude its review and announce the outcomes without further delay so that American businesses can plan accordingly.

Further, the remaining product exclusions have provided limited relief for some U.S. companies. This relief needs to continue and be extended. In USTR's September 11<sup>th</sup> [Federal Register notice](#) extending the exclusions until the end of the year, the agency noted that the extension was provided "*To provide a transition period for the expiring exclusions and to allow for further consideration under the four-year review.*" Since USTR has yet to issue the results of the four-year review, and it is unclear if USTR will release the report before the end of the year, we urge Congress to insist that USTR announce a determination on the exclusions immediately. The ongoing last-minute announcement of exclusion determinations, now the fourth time, continues to challenge those companies who continue to rely on the relief provided by the exclusions.

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<sup>2</sup> <https://www.federalregister.gov/documents/2022/05/05/2022-09688/initiation-of-four-year-review-process-chinas-acts-policies-and-practices-related-to-technology>

<sup>3</sup> <https://ustr.gov/sites/default/files/2022-09/2022-19365.pdf>

<sup>4</sup> <https://www.federalregister.gov/documents/2022/10/17/2022-22469/request-for-comments-in-four-year-review-of-actions-taken-in-the-section-301-investigation-chinas>

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Finally, we renew our request that Congress require USTR to establish a more robust, transparent, and fair exclusions process that is open to all products subject to the China 301 tariffs for as long as the tariffs remain in place.

As economic uncertainty continues, it is imperative that Congress reclaim its constitutional authority over trade and conduct rigorous oversight over USTR to ensure it is using its tools appropriately to create economic opportunity for all Americans and to ensure that American businesses can compete globally.

Sincerely,

Accessories Council	Association of Home Appliance Manufacturers
ACT   The App Association	Auto Care Association
Agriculture Transportation Coalition (AgTC)	Beer Institute
Alliance for Chemical Distribution (ACD)	Building Service Contractors Association
ALMA, International (Association of Loudspeaker Manufacturing and Acoustics)	International (BSCAI)
American Apparel & Footwear Association (AAFA)	Business Alliance for Customs Modernization
American Association of Exporters and Importers (AAEI)	California Retailers Association
American Association of Port Authorities	Can Manufacturers Institute
American Bakers Association	CAWA - Representing the Automotive Parts Industry
American Bridal & Prom Industry Association (ABPIA)	Chemical Industry Council of Delaware (CICD)
American Chemistry Council	Coalition of New England Companies for Trade (CONNECT)
American Clean Power Association	Coalition of Services Industries (CSI)
American Down and Feather Council	Colorado Retail Council
American Fly Fishing Trade Association	Columbia River Customs Brokers and Forwarders Assn.
American Home Furnishings Alliance	Computer & Communications Industry Association (CCIA)
American Lighting Association	Consumer Brands Association
American Petroleum Institute	Consumer Technology Association
American Pyrotechnics Association	Council of Fashion Designers of America (CFDA)
American Rental Association	CropLife America
American Seed Trade Association	Customs Brokers & Freight Forwarders Assn. of Washington State
American Specialty Toy Retailing Association	Customs Brokers & Freight Forwarders of Northern California
American Trucking Association	Electronic Transactions Association
Arizona Technology Council	Energy Workforce & Technology Council
Arkansas Grocers and Retail Merchants Association	Experiential Designers and Producers Association
Association For Creative Industries	Exhibitions & Conferences Alliance
Association for PRINT Technologies	Fashion Accessories Shippers Association (FASA)
Association of American Publishers	Fashion Jewelry & Accessories Trade Association
Association of Equipment Manufacturers (AEM)	Flexible Packaging Association

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Florida Ports Council  
Florida Retail Federation  
Footwear Distributors and Retailers of America (FDRA)  
Fragrance Creators Association  
Game Manufacturers Association  
Gemini Shippers Association  
Georgia Retailers  
Global Business Alliance  
Global Chamber®  
Global Cold Chain Alliance  
Greeting Card Association  
Halloween & Costume Association (HCA)  
Home Fashion Products Association  
Home Furnishings Association  
Household and Commercial Products Association  
Housing Affordability Coalition  
Idaho Retailers Association  
Illinois Retail Merchants Association  
Independent Office Products & Furniture Dealers Association (IOPFDA)  
Indiana Retail Council  
Information Technology Industry Council (ITI)  
International Bottled Water Association (IBWA)  
International Foodservice Distributors Association  
International Housewares Association  
International Warehouse and Logistics Association  
International Wood Products Association  
ISSA - The Worldwide Cleaning Industry Association  
Jeweler's Vigilance Committee  
Juice Products Association (JPA)  
Juvenile Products Manufacturers Association  
Leather and Hide Council of America  
Licensing Industry Merchandisers' Association  
Los Angeles Customs Brokers and Freight Forwarders Assn.  
Louisiana Retailers Association  
Maine Grocers & Food Producers Association  
Maine Lobster Dealers' Association  
Maritime Exchange for the Delaware River and Bay  
Maryland Retailers Association  
Michigan Chemistry Council  
Michigan Retailers Association  
Minnesota Retailers Association  
Missouri Retailers Association  
Motorcycle Industry Council  
NAPIM (National Association of Printing Ink Manufacturers)  
National Association of Chain Drug Stores (NACDS)  
National Association of Foreign-Trade Zones (NAFTZ)  
National Association of Home Builders  
National Association of Music Merchants  
National Association of Trailer Manufacturers (NATM)  
National Confectioners Association  
National Council of Chain Restaurants  
National Electrical Manufacturers Association (NEMA)  
National Fisheries Institute  
National Foreign Trade Council  
National Grocers Association  
National Industrial Transportation League (NITL)  
National Lumber and Building Material Dealers Association  
National Marine Manufacturers Association  
National Restaurant Association  
National Retail Federation  
National Ski & Snowboard Retailers Association  
National Sporting Goods Association  
Natural Products Association  
New Jersey Retail Merchants Association  
North American Association of Food Equipment Manufacturers (NAFEM)  
North American Association of Uniform Manufacturers and Distributors (NAUMD)  
North Carolina Retail Merchants Association  
Ohio Council of Retail Merchants  
Outdoor Industry Association  
Pacific Coast Council of Customs Brokers and Freight Forwarders Assns. Inc.  
Pennsylvania Retailers' Association  
PeopleforBikes  
Personal Care Products Council  
Pet Food Institute  
Pet Advocacy Network

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Plumbing Manufacturers International  
Power Tool Institute (PTI)  
PRINTING United Alliance  
Promotional Products Association International  
Recreational Off-Highway Vehicle Association  
Retail Association of Maine  
Retail Council of New York State  
Retail Industry Leaders Association  
Retailers Association of Massachusetts  
RISE (Responsible Industry for a Sound Environment)  
RV Industry Association  
San Diego Customs Brokers and Forwarders Assn.  
Semiconductor Industry Association (SIA)  
Snowsports Industries America  
Software & Information Industry Association (SIIA)  
South Dakota Retailers Association  
Specialty Equipment Market Association  
Specialty Vehicle Institute of America  
Sports & Fitness Industry Association  
TechNet  
Technology Trade Regulation Alliance (TTRA)  
Telecommunications Industry Association (TIA)  
Texas Retailers Association  
Texas Water Infrastructure Network  
The Airforwarders Association  
The Fertilizer Institute  
The Hardwood Federation  
Toy Association  
Travel Goods Association  
Truck & Engine Manufacturers Association (EMA)  
United States Council for International Business  
United States Fashion Industry Association  
US Global Value Chain Coalition  
US-China Business Council  
Virginia Association of Chain Drug Stores  
Virginia Retail Federation  
Virginia-DC District Export Council (VA-DC DEC)  
Washington Retail Association  
Water Quality Association  
Window and Door Manufacturers Association  
World Pet Association, Inc. (WPA)

CC: Members of Congress