December 20, 2023

The Honorable Ron Wyden
Chairman
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 Mike Crapo
Ranking Member
Committee on Finance
U.S. Senate
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\(^1\), 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,

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. Based on that feedback but before inviting broader input from other stakeholders, USTR announced the continuance of the tariffs in September 2022. It was not until the following month that USTR announced that it would open a broader stakeholder comment period in November 2022. 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 11th 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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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
ACT | The App Association
Agriculture Transportation Coalition (AgTC)
Alliance for Chemical Distribution (ACD)
ALMA, International (Association of Loudspeaker Manufacturing and Acoustics)
American Apparel & Footwear Association (AAFA)
American Association of Exporters and Importers (AAEI)
American Association of Port Authorities
American Bakers Association
American Bridal & Prom Industry Association (ABPIA)
American Chemistry Council
American Clean Power Association
American Down and Feather Council
American Fly Fishing Trade Association
American Home Furnishings Alliance
American Lighting Association
American Petroleum Institute
American Pyrotechnics Association
American Rental Association
American Seed Trade Association
American Specialty Toy Retailing Association
American Trucking Association
Arizona Technology Council
Arkansas Grocers and Retail Merchants Association
Association For Creative Industries
Association for PRINT Technologies
Association of American Publishers
Association of Equipment Manufacturers (AEM) Flexible Packaging Association
Association of Home Appliance Manufacturers
Auto Care Association
Beer Institute
Building Service Contractors Association International (BSCAI)
Business Alliance for Customs Modernization
California Retailers Association
Can Manufacturers Institute
CAWA - Representing the Automotive Parts Industry
Chemical Industry Council of Delaware (CICD)
Coalition of New England Companies for Trade (CONECT)
Coalition of Services Industries (CSI)
Colorado Retail Council
Columbia River Customs Brokers and Forwarders Assn.
Computer & Communications Industry Association (CCIA)
Consumer Brands Association
Consumer Technology Association
Council of Fashion Designers of America (CFDA)
CropLife America
Customs Brokers & Freight Forwarders Assn. of Washington State
Customs Brokers & Freight Forwarders of Northern California
Electronic Transactions Association
Energy Workforce & Technology Council
Experiential Designers and Producers Association
Exhibitions & Conferences Alliance
Fashion Accessories Shippers Association (FASA)
Fashion Jewelry & Accessories Trade Association
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
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