

## **2023 Ways & Means Trade Agenda Hearing – China 301 QFRs and Responses**

**Suzan DelBene**

### **Question 3**

While I strongly support tough and effective actions, ideally in partnership with our allies, to address China's unfair trade practices, we must ensure our existing tariffs are sufficiently targeted to put pressure on China without unnecessarily hurting American jobs. In January of last year, I sent a letter with 140 bipartisan Members of Congress urging USTR to establish a comprehensive exclusion process that would allow for a broader range of American producers, manufacturers, and importers to request relief from these tariffs.

- a. When do you expect USTR to finalize its tariff review?
- b. Does USTR plan on establishing a more comprehensive tariff exclusion process?
- c. Does USTR plan on modifying the existing 301 tariffs?

**Answer:** Within the four-year review, USTR is reviewing the overall structure of the tariffs, including which products should be subject to additional duties. As part of the public comment process, submitters were requested to submit comments on whether certain tariff headings should remain covered by the actions or removed, and USTR and interagency partners are reviewing these comments closely. Additionally, USTR continues to consider additional exclusion processes, as warranted. USTR expects to complete the four-year review in the fall of this year.

**Drew Ferguson**

### **Question 3**

The Section 301 Four Year Statutory Review has been ongoing since May 2022. A recent International Trade Commission report examining the tariffs verifies what I have always believed-American businesses and consumers shouldered most of the cost of these tariffs.

"The Commission's econometric model estimates that tariffs under sections 232 and 301 resulted in a nearly one-to-one increase in prices of U.S. imports following the tariffs. This implies that a 10 percent ad valorem tariff raised the price of U.S. imports from China by about 10 percent. This nearly complete passthrough (meaning that prices received by exporters were largely unaffected and prices paid by U.S. importers increased by the same amount as the tariffs) is unusual but has been similarly found by other recent studies, which conclude that U.S. importers have borne almost the full burden of section 301 tariffs." (Page 22)

I am especially concerned about inverted tariffs, where the tariff on the imported finished good is lower than the tariff on an imported component needed to manufacture the finished good domestically-which subject many U.S. manufacturers to a substantial competitive disadvantage when competing against Chinese imports. Putting U.S. manufacturers at a disadvantage like this only helps China and hurts American companies and the workers they employ and undermines, rather than advances, U.S. supply chain resiliency.

When will USTR complete the Section 301 statutory review? Will USTR use its authority under the statute to adjust inverted tariffs to address the collateral damage that they cause to U.S. manufacturers, their workers and U.S. supply chain resiliency?

**Answer:**

With respect to the USITC report:

- The USITC report estimates the impact on prices faced by importers and downstream buyers, which are often businesses rather than consumers. The USITC's model **does not** address whether those businesses raised consumer prices in response to the tariffs.
- The **price increases** that the report attributes to the tariff actions tend to be **relatively small** on average.
- The report found **certain benefits of the tariff actions**, including outcomes consistent with the objectives of the investigations. The Section 301 tariffs were estimated to have reduced the value of U.S. imports of covered products from China.
- The ITC identified ten industries directly and most affected by the Section 301 tariffs. For all ten industries, the report estimates that Section 301 suppressed the value of imports from China by as much as 72.3 percent (semiconductors) and increased the value of U.S. production by as much as 7.5 percent (household furniture and kitchen cabinets).

I share your interest in supporting domestic manufacturing and supply chain resiliency. As part of the four-year statutory review, USTR sought public comments on a number of issues affecting the economy, including impacts on U.S. manufacturers, their workers, U.S. supply chain resiliency, and possible tariff inversions. On tariff inversions, USTR sought information from the public on specific instances and tariff codes where the Section 301 tariffs have resulted in higher additional duties on inputs used for additional manufacturing in the United States than the additional duties on particular downstream product(s) or finished good(s) incorporating those inputs. All comments submitted as part of the public comment process will be reviewed and given full consideration. USTR expects to complete the four-year review in the fall of this year.

#### **Question 4**

You have undertaken a review of the Section 301 tariffs and state you will act based on the results of the review. Have you examined the gas grill category, and did USTR intend to bifurcate the grill market (classified 7321.11.60) to pick winners and losers in the domestic market? Will USTR consider transferring this category (7321.11.60) to List 4B so it is treated the same as other outdoor grills?

**Answer:** As part of the ongoing four-year statutory review, USTR requested public views on among others, the effects of the actions on the United States economy, including U.S. consumers. Within the four-year review, USTR is reviewing the overall structure of the tariffs, including which products should be subject to additional duties. To that end, through the public comment process, submitters were requested to submit comments on whether certain tariff headings should remain covered by the actions or removed. All comments submitted as part of the public comment process will be reviewed and given full consideration.

#### **Rep. Brian Fitzpatrick**

##### **Question 1**

Unlike past rounds of Section 301 tariff exclusions granted by USTR, which were based on Harmonized Tariff Schedule (HTS) product codes, the Department of Commerce administers a company-specific exclusion process under Section 232 of the Trade Expansion Act.

As Section 232 contains comparable language to Section 301, has USTR considered developing a similar exclusion process? USTR could ask companies seeking such company-specific exclusions to make specific representations, such as their commitment to moving U.S.-bound

production out of China, thus minimizing the administrative burden. If USTR is not considering such an approach, why not?

**Answer:** Exclusions under Section 301 were intended to be temporary with the purpose of giving U.S. importers the incentive and an opportunity to move supply chains outside of China. One of the primary factors considered in granting exclusions was the general availability of the product outside of China. Unlike in the Section 232 process, all importers faced the same general availability of products outside of China. Thus, to avoid giving a tariff advantage to certain importers, granted exclusions were available to all products meeting the scope of the exclusion.

### **Rep. Dan Kildee**

#### **Question 1**

In the China Phase I deal, the Chinese Communist Party (CCP) committed to purchasing additional solar-grade polysilicon from the U.S. So far, there has been no purchases of U.S. polysilicon. Does the USTR plan to take any enforcement actions regarding the China Phase I deal?

**Answer:** China fell far short of implementing many of its commitments under the Phase One Agreement to purchase U.S. goods and services in 2020 and 2021. To date, we have used the consultative mechanism under the Phase One Agreement in an effort to address these shortcomings as well as other implementation concerns, and we have engaged in technical level discussions with China to press them to implement commitments in the Phase One Agreement. We will continue to press China to live up to its commitments, while we also take steps to shape the global approach to China, including through intensified collaboration with allies and partners on strategies for addressing the range of China's harmful trade policies and practices. No trade tool, including further recourse under the Phase One Agreement, is off the table. We will use all appropriate trade tools to defend U.S. workers and businesses, and we are also prepared to work with Congress to develop new trade tools as necessary.

### **Rep. David Kustoff**

#### **Question 1**

Eastern Tennessee is home to one of the last manufacturers of charcoal barbeque grills in the United States - the Meco Corporation. Twenty years ago, Meco employed roughly 900 Tennesseans in Greenville, but there are less than 200 employees in that same factory today due to IP theft from China. Unfortunately, the situation facing Meco is not unique, and has devastated numerous manufacturers around my great state and nation.

1. During the most recent 301 process, USTR placed a 25% tariff on gas and electric grills, but not charcoal grills. Why is there duty on gas and electric grills, but not charcoal grills?
2. What is the USTR doing to ensure small manufacturers like Meco are able to compete against China?
3. I understand that USTR's four-year review of the Section 301 tariffs is ongoing. I urge to you prioritize the interests of small manufacturers like Meco and their workers as you determine any policy changes to make at the end of the review. Will you commit to using Section 301 tariffs to protect small manufactures to ensure they have a level playing field?

**Answer:** China has a well-established track record of conducting unfair trade practices to acquire U.S. technologies and intellectual property. As part of the four-year review, USTR is

undertaking an examination of the effectiveness of the actions in obtaining the elimination of China's acts, policies, and practices related to technology transfer, intellectual property and innovation. USTR is also considering other actions that could be taken to achieve the objectives of the investigation. Additionally, USTR is reviewing the overall structure of the tariffs, including which products should be subject to additional duties. To that end, as part of the public comment process, USTR requested comments on whether certain tariff headings should remain covered by the actions, be removed, or added. To aid in the consideration of comments from small business, USTR requested that commenters report whether they meet the size standards for a U.S. small business as established by the Small Business Administration.

### **Question 3**

Under what criteria will USTR make decisions in its Section 301 necessity review?

I have constituents who import components subject to 301 tariffs that are used as inputs to manufacture products in the United States. What is the USTR doing to ensure that tariffs on manufacturing inputs aren't hurting U.S. workers and companies?

**Answer:** I share your goal of supporting domestic manufacturing. As part of the public comment process for the four-year review, USTR sought comments on a number of factors affecting the economy, including impacts on U.S. manufacturers, their workers, U.S. supply chain resiliency, and possible tariff inversions. On tariff inversions, USTR sought information from the public on specific instances and tariff codes where the Section 301 tariffs have resulted in higher additional duties on inputs used for manufacturing in the United States than the additional duties on a particular downstream product or finished good incorporating those inputs. All comments submitted as part of the public comment process will be reviewed and given full consideration.

### **Rep. Darin LaHood**

#### **Question 2**

We learned from the pandemic that dependence on any single source for elements of a key supply chain poses a significant national security risk. For example, during COVID, we faced challenges for personal protective equipment (PPE) as many types of PPE are not made in sufficient quantities in the United States to handle a demand surge. Additionally, we face similar challenges with critical mineral supply chains. I believe that high-standard Free Trade Agreement (FTAs) can be an important part of the solution to these vulnerabilities by establishing more reliable supplies from trusted nations while opening up markets for American products and services. That is why I remain concerned about the Biden administration's lack of pursuit of FTAs, which also can help strengthen our strategic competitiveness with China. I also believe that a fair and targeted Section 301 tariff exclusion process can help focus these tariffs on products that will maximize leverage against China while providing relief for Americans purchasing certain products. Will USTR's ongoing four-year review of the Section 301 tariff action meaningfully address the lack of a forward-thinking strategy to enter into meaningful FTAs with our regional partners and allies as a way to counteract China and further secure our global supply chains? Do you expect to address arguments that some expired tariff exclusions, for healthcare or other products, should be extended in that context?

**Answer:** We intend to use the full range of tools we have and develop new tools as needed to defend American economic interests from harmful policies and practices. As part of the four-year review, USTR is examining the effectiveness of the actions in achieving the objectives of the investigation into China's acts, policies, and practices related to technology transfer, intellectual property and innovation. USTR is also considering other actions that could be taken to achieve

the objectives of the investigation and to make the tariff action more strategic. This includes a review of the overall structure of the tariffs, including whether certain tariff headings should remain covered by the actions, or be removed.

**Rep. Carol Miller**

**Question 13**

One in three of every row of soybeans grown in the U.S. is destined for China. Furthermore, according to USTR's Wisconsin State Factsheet, soybeans are Wisconsin's second largest agricultural export after dairy products and according to the Wisconsin Soybean Marketing Board, in 2020, about 65% of soybeans grown in Wisconsin are exported to international markets. While U.S. Exports of soy to China hit record highs in 2022 and 2021, soy farmers in Wisconsin remain concerned that trade tensions between the United States and China will result in additional market barriers. Since the Phase One Agreement negotiated by the previous Administration expired, the retaliatory tariffs China implemented in response to our Sect. 301 tariffs that were exempted through the Phase One Agreement may be reinstated, subjecting US soy exports to a 25% tariff. Ambassador Tai, how do you and the Biden administration intend to press China to address the larger geopolitical issues while continuing to protect the ability of our farmers and others to have access to that market?

**Answer:** Beyond China's commitments under the Phase One Agreement to purchase certain U.S. goods and services in calendar years 2020 and 2021, the Phase One Agreement includes commitments that are still in place, obligating China to take numerous actions independent of its purchase commitments, including in the area of agriculture. As described in the 2022 USTR Report to Congress on China's WTO Compliance, while China has met some of its Phase One commitments, it has not yet met certain commitments, and we continue to press China to do so, using the consultative mechanism under the Phase One Agreement. We will continue to press China to live up to its commitments, while taking steps to intensify our collaboration with allies and partners on strategies for addressing the range of China's harmful trade policies and practices. We will use all appropriate trade tools to defend U.S. agriculture, workers and businesses.

**Question 15**

The Section 301 tariffs on Chinese products, specifically on those Chinese parts and components used in U.S. manufacturing, have been in place for nearly five years. While I understand one objective of the tariffs was to incentive U.S. businesses to source from outside China, at this point, I think many U.S. manufacturers who are still importing parts from China are doing so because they have no choice. Often, there are still no alternatives. Tariffs on those imported parts can drive up the cost of manufactured goods made in Wisconsin and hurt Wisconsin manufacturers, other Wisconsin businesses that supply those manufacturers, and Wisconsin workers. It also makes it harder for goods made in Wisconsin to compete with foreign products from other regions, including Europe, Asia or Latin America that often use those same Chinese parts for which American manufacturers now have to pay a 25% tariff. This is why I encourage you to institute a meaningful tariff exclusion process. When do you expect to conclude your four-year review of the Section 301 China tariffs and decide on whether to establish a new 301 tariff exclusion process?

**Answer:** Within the four-year review, USTR is reviewing the overall structure of the tariffs, including which products should be subject to additional duties. As part of the public comment process, submitters were requested to submit comments on whether certain tariff headings should

remain covered by the actions or removed. USTR continues to consider whether additional exclusion processes may be appropriate. USTR expects to conclude the four-year review in the fall of this year.

**Rep. Linda Sanchez**

**Question 2**

iRobot is a leading U.S. consumer robotics company with a presence in California. Issues with the administration of section 301 tariffs continues to adversely affect companies like iRobot and their ability to compete globally. Exclusions granted by USTR based on the Harmonized Tariff Schedule (HTS) often inadvertently benefit foreign and Chinese competitors who take advantage of the meritorious applications of American companies working to diversify their supply chains. Currently, the Department of Commerce administers company-specific exclusions under Section 232. If USTR were to initiate an exclusion process for Chinese products subject to Section 301 tariffs, could USTR develop an exclusion process that identifies specific criteria for obtaining a company-specific exclusion, such as moving significant US-bound production out of China?

**Answer:** As part of the statutory four-year review, USTR is considering the overall structure of the tariffs and will continue to consider whether additional exclusion processes may be appropriate. Exclusions under Section 301 were intended to be temporary with the purpose of giving U.S. importers the opportunity and incentive to move supply chains outside of China. One of the primary factors considered in granting exclusions was the general availability of the product outside of China. Unlike the Section 232 exclusion process, all importers faced the same general availability of products outside of China. Thus, to avoid giving a tariff advantage to certain importers, granted exclusions were available to all products meeting the scope of the exclusion.

**Question 3**

Why are optical products, specifically spectacle frames, lenses, prescription glasses, nonprescription sunglasses and reading glasses, all of which are medical devices regulated by the FDA, treated differently than other widely and commonly used medical devices, such as hearing aids, dentures & artificial teeth, crutches, walkers, and wheelchairs? The latter were never subject to Section 301 duties, while all eyewear products were included on List 4a.

**Answer:** Within the four-year review, USTR is reviewing the overall structure of the tariffs, including which products, should be subject to additional duties. As part of the public comment process, USTR sought comments on whether certain tariff headings should remain covered by the actions or removed. All comments submitted as part of the public comment process will be reviewed and given full consideration.

**Rep. Brad Wenstrup**

**Question 4**

I am concerned that so far, the Administration has offered no clarity on the future of the Section 301 tariffs that were imposed in 2018 and 2019. Over 4 years later, U.S. imports from China are just as high as they were in 2018, and a recent study from the U.S. International Trade Commission indicated that Chinese producers bore little to none of the tariff cost and, instead, U.S. importers paid higher prices. Now that we have those data points, I'd like to offer you this opportunity to clarify the Administration's strategy on China trade.

1. When will USTR complete its statutory four-year review of the tariffs?
2. Once that review is complete, do you intend to remove any of the Section 301 tariffs?

3. What are your views on reopening the Section 301 exclusion process to allow U.S. businesses to make their case that certain imports from China do not pose a threat to national security, are nonstrategic, and inflict disproportionate harm on the U.S. rather than China?

**Answer:** Two recent studies have offered data points and analysis that are relevant to your question. The Peterson Institute for International Economics (PIIE) estimates that imports from China in 2022 were nearly at the levels reached in 2018. However, the data show that the Section 301 tariffs significantly reduced Chinese imports, and without them, imports from China would have been significantly higher. PIIE estimates that imports of goods under Lists 1, 2, and 3 (subject to 25% duties) have declined by nearly 25 percent since 2018 while imports of goods under List 4B (subject to 7.5% duties) have fallen by 8 percent since 2019. By contrast, imports of Chinese goods **not** subject to Section 301 tariffs increased by 42 percent.

With respect to the USITC report:

- The USITC report estimates at the impact on the prices faced by importers and downstream buyers, which are often businesses rather than consumers. The USITC's model **does not** address whether those businesses raised consumer prices in response to the tariffs.
- The price increases that the report attributes to the tariff actions tend to be **relatively small** on average.
- The report found certain benefits of the tariff actions, including outcomes consistent with the objectives of the investigations. The Section 301 tariffs were estimated to have **reduced the value of U.S. imports of covered products from China**.
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Within the four-year review, USTR is reviewing the overall structure of the tariffs, including which products should be subject to additional duties. As part of the public comment process, USTR sought comments on whether certain tariff headings should remain covered by the actions or removed. USTR continues to consider whether additional exclusion processes may be appropriate. USTR expects to complete the four-year review in the fall of this year.