



The Honorable Katherine Tai
United States Trade Representative
600 17th Street NW
Washington, D.C. 20508

January 17, 2023

Re: 301 Tariff Review

Dear Ambassador Tai:

On behalf of the American Association of Exporters and Importers (AAEI) and its members, we would like to thank the United States Trade Representative (USTR) for allowing U.S. businesses to consider the effectiveness and impact of the 301 tariffs on the U.S. economy. AAEI supports efforts to hold China accountable for its unfair, discriminatory, and burdensome acts, policies, and practices regarding intellectual property rights, technology transfers, and innovation. However, we do not believe the 301 tariffs are an effective approach to eliminating these measures and changing China's behavior.

AAEI's comments are focused on the Effectiveness of the Actions & Economy-Wide Comments, consistent with the questionnaire published by USTR.¹ AAEI believes that the current 301 tariffs have caused more harm than good to the U.S. economy. We believe that the development and implementation of precise export controls and technology transfer restrictions have proven to be more effective than the tariffs. To the extent the Administration continues to impose 301 tariffs, AAEI urges USTR to establish a comprehensive process for considering exclusions for all product categories and improve upon USTR's prior exclusion process by making it more efficient and transparent. AAEI also urges USTR to seek new tools, including working with our allies to strengthen and expand fair and open markets. In the end, enhancing trade certainty and reducing trading costs for U.S. businesses will allow these firms to prosper, create more jobs, invest in their workers, and make U.S. businesses more competitive.

¹ See Docket ID: USTR-2022-0014, Request for Comments; Four-Year Review of Actions in sec 301 Inv. Of China.



AAEI has been a national voice for the international trade community in the United States since 1921. AAEI represents the entire spectrum of the international trade community across all industry sectors. Our members include manufacturers, importers, exporters, wholesalers, retailers, and service providers to the industry, which is comprised of customs brokers, freight forwarders, trade advisors, insurers, security providers, transportation interests and ports. Many of these enterprises are small businesses seeking to export to foreign markets.

Impact of Current Section 301 Tariffs on the U.S. Economy and Supply Chains:

As technical experts regarding the day-to-day facilitation of trade, AAEI understands that USTR must have various tools available to address Chinese discriminatory trade practices. However, the use of tariffs on a broad swath of U.S. imports have placed many importers, particularly small businesses, in an untenable position. Many U.S. manufacturers require parts and components that remain available only from China. Many U.S. businesses have been unable to obtain supply from third countries due to lack of capacity and industries in other countries. Moreover, the current economic inflationary environment makes it cost prohibitive for many companies to re-shore or near-shore. The end result is that these businesses are subject to prohibitively high import costs.

Over the last two years, U.S. importers and exporters have grappled with supply chain disruptions, port congestion, and product shortages and inflation. Addressing many of these ills have required U.S. businesses to soften expansion plans, delay or postpone investment in new products and services, and suffer reduced employment productivity.

From an economic perspective, American consumers are paying for most of the tariffs on imports from China, and U.S. exporters are absorbing the costs of China's retaliatory tariffs. It is counterproductive to place taxes on imports of intermediate inputs used to manufacture exported products, undermining the competitiveness of such U.S. exports. Many of the 301 tariffs are directly impacting downstream U.S. manufacturers who are supporting millions of U.S. jobs.



Our comments are consistent with those previously expressed by the Americans for Free Trade coalition, a broad alliance of American businesses, trade organizations, and workers united against tariffs, which stated that “these taxes create tremendous uncertainty, increase the cost of doing business in the United States, and place a financial burden on American businesses – negatively impacting their ability to invest in their companies, hire more American workers, innovate new technologies, and remain competitive globally. And the tariffs result in increased prices for goods that American families need. In short, tariffs have had a negative impact across the U.S. economy.”

Effectiveness of Targeted Export Control and Technology Transfer Policies:

Since 2018, the U.S. government—through legislation, regulation, and licensing practices—has created import restrictions and an export control system that has sought to address China’s state-led industrial policies. Many of these changes were efforts to address concerns about China’s pursuit of civilian and military leadership in advanced technologies through U.S. commercial ties. While many of the U.S. policies have focused on controlling emerging and foundational technologies, the U.S. government has also used these tools to address other trade distortions, including forced labor, cross-subsidization, and barriers to entry, and the availability of certain products.

Specifically, through U.S. licensing, dual-use export controls, and entity lists that seek to “blacklist” certain foreign persons, entities, or governments from importing and exporting with U.S. companies, the U.S. government has surgically attempted to address China’s industrial policies that sought military and economic gains. AAEI believes a successful China policy requires strengthening other technology controls, and licensing practices, engaging multilaterally to ensure U.S. controls are effective, more effectively targeting bad actors and regimes while providing U.S. importers and exporters with cost-effective, transparent, and efficient compliance policies.



Need for Exclusion Process:

AAEI is concerned that USTR's decision to only consider granting exclusion waivers on 549 product categories, a fraction of the more than 2,200 items that were eligible for tariff relief, has left many U.S. businesses without relief. Many U.S. businesses, mostly small businesses, who previously received waivers and those who would under normal course seek exclusions, are currently locked out of future exclusions.

AAEI is also concerned about the lack of transparency in the previous Administration's process for requested exclusions and our importer members urge your Office to enact a more open and equitable review method for determining renewed exclusions. The Government Accountability Office's report on July 28, 2021, found inconsistencies in the previous Administration's review and ruling process and found the documenting of USTR's internal procedures to be lacking.

AAEI requests that USTR adopt a comprehensive exclusion process that is available for all products current subject to 301 tariffs and make public its procedural steps, a timeline, and roles and responsibilities for all stages of the exclusion review and ruling process.

Other actions or modifications that would be more effective:

Conclude the Indo-Pacific Agreement: AAEI believes that working with the U.S.'s trade allies is the most effective way to address China's trade distorting measures. AAEI supports the Biden Administration's current efforts to explore the development of an Indo-Pacific Economic Framework to deepen economic relations in the Indo-Pacific region. We believe that the significant challenges for U.S. exporters seeking to deliver their products to foreign markets affordably and dependably necessitates the Administration's focus on "fair and resilient trade," specifically with trade facilitation. AAEI also believes that these agreements should include market access provisions to address the protectionist policies and barriers that U.S. firms face when seeking to do business in Southeast Asia.

Immediate suspension of 301 tariffs on Consumer Goods: Given the current inflationary pressures, AAEI believes USTR should immediately eliminate tariffs on



consumer goods. The tariffs' added inflationary pressure on consumer goods erodes consumers' purchasing power and the value of savings and investment.

Consider exempting 301 duties on critical products and inputs supporting critical industries: USTR should also consider exempting 301 duties from industries that are critical for global economic development. For example, the Administration has identified semiconductors manufacturing and advanced packaging; civil aircraft equipment; large capacity batteries; critical minerals and materials; and pharmaceuticals and active pharmaceutical ingredients as “critical products” that may be vulnerable to supply chain disruptions, such that the imposition of steep Section 301 tariffs would be at odds with such Administration priorities.

Conclusion:

Over the last two years, the growth of inflation, supply chain disruptions, and the reshuffling of trade flows have placed enormous economic pressures on importers and exporters and the consumers that they support. Now, is the time for the U.S. government to provide some level of direct relief. We urge the U.S. government to seek more surgically tailored trade remedies and multilateral cooperation to address China's trade distorting actions.

Sincerely,

Eugene C. Laney Jr.
American Association of Exporters and Importers
President and CEO