



June 22, 2020

Hon. Robert E. Lighthizer
United States Trade Representative
Office of the United States Trade Representative
600 17th St., NW
Washington, DC 20508

Re: Comments on Additional Modifications to the 301 Action to Address COVID-19: USTR-2020-0014

On behalf of the Committee to Support U.S. Trade Laws (“CSUSTL”), an organization of U.S. companies, trade associations, and workers, we provide comments on the USTR’s possible further modifications in the Section 301 duties investigation of China’s acts, policies, and practices related to technology transfer, intellectual property, and innovation by removing 301 duties from products to address the COVID-19 outbreak.¹ Rather than address particular requests, CSUSTL provides general comments for the agency’s consideration as it reviews all requests before it.

CSUSTL has stated its strong support for the efforts of the federal, state, and local governments to contain and combat the COVID-19 outbreak. We stand beside our medical providers, manufacturers and workers who are on the front lines of the battle to provide health care, food and needed supplies. However, CSUSTL also opposes any claims that the appropriate use of U.S. trade laws, particularly laws addressing unfair trade practices, hamper the efforts to address the COVID-19 pandemic. CSUSTL also opposes any attempts to use this crisis to

¹ See *Request for Comments on Additional Modifications to the 301 Action To Address COVID-19: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 85 Fed. Reg. 16,987 (USTR March 25, 2020) (*hereinafter* “FR Notice”).



weaken or obstruct U.S. trade laws or their crucial role in protecting domestic industries and workers. We encourage USTR to likewise reject any attempts to misuse the agency’s review of medical needs during this time to remove duties from other products, contrary to the intent that has been expressed by the USTR.

In the Federal Register notice in which USTR called for comments, USTR made clear that what it would consider was the removal of 301 duties from “medical-care products.”² USTR explained that as it has considered exclusions from the various tranches of the 301 duties on Chinese goods, it has “assessed medical necessity in granting exclusions” and has already granted around 200 exclusions on items such as “personal protective equipment products and other medical-care related products.”³ In order to determine whether the removal of duties from additional products would benefit the COVID-19 response in the United States, USTR asked commentators to “explain precisely how the product relates to the response to the COVID-19 outbreak.”⁴ USTR provided as examples products that are “directly used to treat COVID-19 or to limit the outbreak” or products “used in the production of needed medical-care products.”⁵

Despite USTR’s stated purpose that this process be used to address needs for medical-care products, many of requests for duty exclusions that have been filed are for products that are anything but. Instead, many requests, often submitted as long lists of products, attempt to use the process to seek exclusions for products that have only the most specious connection to the COVID-19 response. For example, requests have been filed for duty exemptions for dog food

² *FR Notice*, 85 Fed. Reg. at 16,988.

³ *Id.*

⁴ *Id.*

⁵ *Id.*



and cat litter, dishwashers, toasters and waffle makers, automotive window glass and bumpers, and video doorbell cameras. But no requestor has yet explained how dog food and cat litter or waffle makers are medical-care products, are “directly used to treat COVID-19 or to limit the outbreak”, or are used to make such medical-care products.

We encourage USTR to take a critical view of such requests that are not in response to any needs for any medical-care products that USTR is addressing, but only seek to avoid the application of the 301 duties that were put in place in response to China’s long problematic trade practices. Requests that attempt to expand the duty removal beyond the needs USTR has recognized should not be granted. We also urge USTR to examine closely any requests that seek duty exclusions on Chinese products of types that have already been found to be unfairly traded and to have injured U.S. industries, such as washing machines, various types of steel, aluminum extrusions, and innerspring mattresses. USTR should not allow this process to be abused to foster the further import of such injurious products. Finally, as has been noted in various responses submitted in opposition to some requests, USTR should also be critical of requests for duty removal from products that are already produced in the United States, particularly where the request makes no showing that U.S. supply is insufficient to meet any heightened demand during this crisis. Duty exclusions are unnecessary if U.S. producers stand ready to supply the needs of the country, and encouraging reliance on imported products will only do further long-term damage to the United States’ ability to quickly and meaningfully respond to medical crisis in the future.



We appreciate USTR's consideration of these comments. Please do not hesitate to contact the undersigned with any questions regarding these comments.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "N. Birch", is written over a horizontal line. The signature is fluid and cursive.

Nicholas J. Birch
Co-Chair, Enforcement Subcommittee
Committee to Support U.S. Trade Laws