AMERICANS FOR
FREE ★ TRADE

July 2, 2019

Submitted via www.regulations.gov.

The Honorable Robert E. Lighthizer
United States Trade Representative
The Winder Building
600 Seventeenth Street, N.W.
Washington, D.C. 20508

Re: Request for Comments Concerning Proposed Modification of Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation (84 Federal Register 22564, Docket No. USTR-2019-0004 (May17, 2019)).

Dear Ambassador Lighthizer:

The Americans for Free Trade ("AFT") Coalition appreciates the opportunity to submit rebuttal comments in connection with the proposal by the Office of the United States Trade Representative ("USTR") to impose a 25 percent tariff on $300 billion in annual China-sourced goods. We thank you and your staff for establishing the "List 4" comment and hearing process.

The Administration's plan to impose this tariff on List 4 goods will weaken American job creators, harm small businesses, and force American consumers to pay still more border taxes on hundreds of everyday products they rely on. None of this will aid the Administration in resolving the underlying trade dispute with the People's Republic of China. Though we agree that China must be held accountable for its failures to meet its obligations under the rules-based international trading system, using the American consumer and, more broadly, the American economy as a means to punish China simply will not work.

The recently concluded List 4 hearing hosted by the Section 301 Committee itself demonstrates this disconnect between means and ends. Though 370 individual witnesses appeared over seven days of continuous testimony, and over 2,700 comments have been filed, the overwhelming majority of the witnesses opposed the imposition of tariffs on inputs to production or finished goods from China. Manufacturers, distributors, retailers, publishers, small business operators, port operators, and others – they appeared at the hearing to state their opposition to the List 4 tariffs proposal. Companies that manufacture, source, and sell oil and gas products, chemicals, plastics, HVAC equipment, jeans, footwear, jewelry, car seats and strollers, baseball caps, toys, bridal gowns, pet products, outdoor grills, greeting cards, sports equipment, lighting and electrical components, televisions and consumer electronics, fireworks, snow blowers, seafood, and Bibles – among many, many others – voiced opposition to this proposal and provided hundreds of illustrations of the economic damage it will wreak.

To quote but one witness, AFX Helmets, a motorcycle helmet maker, emphasized:

> Tariffs are taxes. Foreign countries do not pay them. American businesses and consumers who purchase goods under tariff will pay all the burden of the increased costs if these proposed tariffs were to go into place. This would undeniably be a severe economic and unintended safety consequence for innocent American consumers. Our fear is that if this tariff was to come into place it may deter riders from purchasing or upgrading this most important piece of safety gear, the helmet… Increased costs to the consumer will only prolong the continued use of outdated safety gear. Safety has to be affordable, and consumers must be able to count on their elected officials to always act in the best interest of the safety of its citizens.

These companies are not a minor adjunct to the American economy, supporting a narrow group of niche producers. Rather, they *are* the American economy, supplying the innovation, acumen, and sweat equity necessary to power dozens of important sectors in the world's most prosperous nation. The products these companies offer, regrettably, will now become far more expensive to source and supply to cost-conscious American consumers. Many of these companies also export to China (or have a presence on the ground in China to serve U.S. exporters), and face China's unfair retaliatory tariffs against their exports as well. The cumulative impact will be to dampen job creation, increase business uncertainty, and erode overall U.S. economic performance.

These impacts are especially worrisome, coming as they do on top of $27 billion in Section 301 tariffs already paid by Americans in the China dispute since May 2019. In a recent study we commissioned, the Trade Partnership, concluded that the scenario now unfolding – with 25 percent tariffs imposed on $500+ billion in annual China-sourced goods, along with other Administration tariffs still in place on other vital inputs – will cost the average American family $2,300 and shave a full percentage point from CY2019 GDP growth. There is simply no disputing that the List 4 proposal will harm American businesses that utilize inputs from China to meet the needs of their customers.

Addressing this challenge is far more complex than summarily moving supply away from China. As we have made clear from the beginning of the China Section 301 dispute, modifying supply chains to source from third countries is neither inexpensive nor straightforward, and it requires years, not days or months, to complete. Businesses sourcing from China today often do so not for any advantage in production costs, as China labor costs today are often higher than those of its neighbors. Instead, companies have built up partnerships with experienced suppliers over decades, and value the predictability and efficiency that often results. Those partnerships cannot be dismantled overnight. Numerous companies represented in our Coalition, moreover, source from China because China is also a major export market. These companies report that they sell more *U.S.-made* products in nations from which they also source inputs, China included.

Nor will any exclusion process established for List 4 by USTR provide effective relief to these companies. First, we do not anticipate that USTR will establish any such process this year. Second, USTR is already burdened with the Lists 1 and 2 exclusion processes that together involve nearly 14,000 exclusion requests. The List 3 exclusion process established June 24, 2019, involving as it does $200 billion of goods, may attract at least that many requests. Even if USTR wanted to provide relief to companies harmed by List 4, the agency could not do so. Our companies realistically will have to wait until 2021 for USTR approvals – if any – to List 4 exclusion requests. For small businesses incapable of financing their way through this challenge, the prospect of a successful 2021 exclusion request is no relief at all. That makes it all the more important to fully consider now, at the front end, the negative impacts of the List 4 proposal.

Considering these dynamics, it is not surprising that most witnesses who testified and who have filed comments are in opposition to the additional List 4 tariffs. We ask you to consider carefully the real impact of finalizing the List 4 proposal on all these American companies, their workers and consumers. **We strongly urge the Administration to consider delaying the entire proposal to allow for negotiations with China to resume as soon as possible.** And we ask you to work diligently to bring this dispute with China to an expeditious conclusion that includes the removal of all Sec. 301 and retaliatory tariffs.

Thank you for taking into consideration the views of our Coalition and the companies and workers it represents, in response to this important USTR proposal.

Sincerely,

The Americans for Free Trade Coalition