

February 1, 2022

Ambassador Katherine Tai
United States Trade Representative
Executive Office of the President
600 17th Street, NW
Washington, DC 20508

RE: China 301 Exclusion Process and Meeting Request

Ambassador Tai,

I am reaching out to you on behalf of the Society of Chemical Manufacturers and Affiliates (SOCMA) to request that the Office of The United States Trade Representative (USTR) reinstate an exclusion process for chemicals imported from China that are currently subject to a 25% surtax under the Section 301 investigation of China. SOCMA also seeks support for amending USMCA implementing legislation to permit duty drawback for 301 tariffs. Additionally, I would like to take this opportunity to request a meeting to discuss and further explain the concerns of the specialty chemical industry.

SOCMA is the only U.S.-based trade association solely dedicated to the specialty and fine chemical industry – a \$300 billion industry that is fueling high paying jobs in local economies across the United States. SOCMA members play an indispensable role in the global chemical supply chain, providing specialty chemicals to companies in markets ranging from aerospace and electronics to pharmaceuticals and agriculture.

301 Exclusion Process

In many cases, China is the only or predominant source of inputs and raw materials for the specialty chemical industry and there is a need to alleviate the tariffs on those products.

SOCMA encourages USTR to take a three-step approach to 301 tariff exclusions, of which USTR has already completed step one:

1. Reopen the exclusion process for previously extended exclusions (already completed by USTR)



2. Open the exclusion process for all previously granted now expired exclusions
3. Re-open the exclusion process to all 301 tariffs
 - a. Exclusions should be retro-active to the date of expiration or the date the tariff was implemented

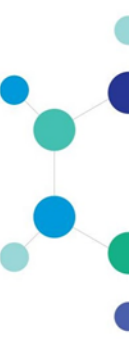
SOCMA welcomes the pragmatic approach to the US trade relationship with China and supports holding China accountable for negotiated agreements including the “Phase 1 Agreement.” Additionally, SOCMA hopes USTR will diligently work to negotiate a robust Phase 2 deal. Through these negotiations the U.S. can hope to level the playing field with China as it relates to trade and intellectual property.

There are a number of reasons to re-open the exclusion process, not the least of which is that tariffs on products that are not competitively available outside of China have a compounding effect on the US economy of which the chemical industry is a net exporter. The tariffs that are being paid by US companies hinder their production and growth opportunities, and because it increases the cost of US products it makes them less competitive in the global market, which in turn inhibit reductions in the US trade deficit.

SOCMA was pleased with the announcement that USTR would consider requests to renew the exclusions for the 549 expired but previously extended Section 301 tariff exclusions, though few if any of these 549 products directly impact SOCMA members. Perhaps even more encouraging than opening the 549 products for renewal, in the announcement, USTR delivered specific criteria by which requests would be reviewed, which can be applied to additional tariff exclusion reviews. SOCMA respectfully requests that the applications submitted for the reopened exemptions be swiftly reviewed and granted without further delay.

SOCMA strongly believes that as step two, USTR should broaden the number of expired exclusions eligible for reinstatement to include all of the products that were previously granted an exclusion. There were many products that are important to the supply chain that expired in August of 2020. Additionally, any cases in which one of these exclusions is re-instated should be retro-active to August 2020.

Further, SOCMA requests that as step three in this exercise, all the importers of 301 sur-taxable substance should be offered a new opportunity, with the newly understood criteria, to request an exclusion from these levies. A significant reason to reopen the entire process is that the initial process under the previous administration was opaque with no explanation, nor understanding of the criteria for which an exclusion would be granted. Additionally, the USTR response to



exclusion requests did not shed any light on the reason exclusions were either declined or granted.

SOCMA strongly believes any exclusion process conducted by USTR must be transparent and inclusive for all stakeholders, apply consistent procedures and processes for all tariff exclusion applications, and base decisions on clear evidence and consistent criteria.

Since the exclusion process is a substantial burden on the small staff of USTR, SOCMA urges that as much of the work as possible be delegated to the Department of Commerce as well as the USITC, which is a logical path forward because many of the requests that USTR will receive will have already been extensively studied by Commerce and USITC as part of the duty suspension process.

Support for Legislation to Amend USMCA Implementation

SOCMA also requests the support of USTR in amending USMCA implementing legislation to allow duty drawback for 301 surtaxes. The collection of these levies places SOCMA members at a severe disadvantage for exports to Mexico and Canada since international competitors do not have the 25% surcharge included in the cost of raw materials. The implementing legislation of USCMA will need to be amended to resolve this trade imbalance. SOCMA's hope is that this is a unilateral change and does not require the participation, nor negotiation with, Mexico or Canada.

SOCMA and its members appreciate the opportunity to share this input on the China Section 301 tariff exclusions process and welcome an opportunity to discuss these matters with USTR at your earliest convenience.

Regards,

Robert F. Helminiak
Vice President, Legal & Government Relations
SOCMA