



RETAIL INDUSTRY LEADERS ASSOCIATION

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September 22, 2021

Via Online Submission

The Honorable Katherine Tai
United States Trade Representative
Office of the United States Trade Representative
600 17th Street NW
Washington, DC 20006

Re: Request for Comments on Certain Products Exclusions Related to COVID-19: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation (Docket No. USTR-2021-18521)

Dear Ambassador Tai,

The Retail Industry Leaders Association (RILA) appreciates the opportunity to comment on the Request for Comments on Certain Products Exclusions Related to COVID-19: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation (Docket No. USTR-2021-18521) issued by the Office of the United States Trade Representative (USTR) on August 27, 2021. Below we detail the impact of the Section 301 tariffs on the country's leading retailers in light of the ongoing COVID-19 pandemic and the essential products needed to combat the pandemic that we believe should be granted exclusion extensions from the tariffs. These extensions are especially critical with the rapid spread of the Delta variant across the nation and as we approach the regular flu season.

RILA is the trade association of the world's largest, most innovative and recognizable retail companies and brands. We convene decision-makers, advocate for the industry, and promote operational excellence and innovation. Our aim is to elevate a dynamic industry by transforming the environment in which retailers operate. RILA members include more than 200 retailers, product manufacturers, and service suppliers, which together account for more than \$1.5 trillion in annual sales, millions of American jobs, and more than 100,000 stores, manufacturing facilities, and distribution centers domestically and abroad. RILA's membership includes some of the largest importers in the U.S.

RILA supports the Administration's efforts to hold our trading partners accountable and using targeted trade remedies against intellectual property theft, illegal dumping or subsidies, and other proven trade violations consistent with international rules. However, we remain opposed to the use of tariffs, more specifically tariffs on consumer products, as a method to gain leverage over another country.

As USTR continues to review its China trade policy, the tariffs that remain in place on upwards of



\$300 billion in goods, are being paid for by American businesses, workers, and consumers. In granting these exclusions originally, the Administration has already deemed that these products cannot be sufficiently sourced outside of China and that domestic markets are not able to produce the necessary quantities to meet U.S. consumer demand. The availability to source these or comparable products at the same level of quality, safety standards, and production capacity from sources within the United States and/or in third countries has not changed since these exclusions were first granted. However, since that time, global supply chains have continued to be upended by the COVID-19 pandemic, creating uncertainty and cost increases for companies trying to source essential products around the world. Alternative sourcing outside of China in an expedited time frame is risky, time consuming and costly, especially in the continuing pandemic environment. Allowing these exclusions to expire and imposing additional tariffs at this time would create immense supply chain uncertainty. But retailers need supply chain simplicity now more than ever to allow them to continue to provide Americans with access to the items they depend on for their health and safety.

As Americans are forced to continue to combat this unprecedented public health crisis, they need affordable access to products that will protect them and their loved ones from COVID-19. An initial line of defense in staving off the virus, hand sanitizer, will be subject to Section 301 tariffs if the exclusion is allowed to expire. Face masks, a vital protective barrier in the battle against COVID-19 as highlighted by the Centers for Disease Control and Prevention (CDC) and a requirement in many American jurisdictions, will also be subject to higher costs if the current exclusion is allowed to expire. Another defense mechanism for preventing infection is personal protective equipment (PPE) that medical professionals desperately need in order to safely care for COVID-19 patients. Many PPE products such as gloves and safety glasses are currently receiving an exclusion from Section 301 tariffs.

The primary tool for Americans to self-diagnose and determine if they are infected, thermometers, also falls under the Section 301 tariffs. As fever is a common symptom of COVID-19, Americans need access to thermometers to determine whether they are ill and should seek medical treatment. Additional medical products such as blood pressure monitors and pulse oximeters allow Americans to monitor their oxygen levels at home, preventing an unnecessary trip to the hospital that further overwhelms over-capacity emergency rooms. The exclusions for blood pressure monitors and pulse oximeters should be extended and modified to remove the "for use by medical professionals" restriction. Customs and Border Protection (CBP) interprets that phrase strictly and will not apply the exclusion to those devices put up for retail sale, even when the products are functionally identical to those sold to clinicians.

In addition to American consumers, COVID-related product exclusions are critical for the safety of American workers. The retail industry is one of the largest employers in the nation and our members are working tirelessly to protect their workers. As retail workers serve on the frontlines of the pandemic to ensure that Americans have access to vital necessities, workers also need affordable access to PPE, thermometers, blood pressure monitors, pulse oximeters and hand sanitizer for their own protection. Retail companies have completely transformed their stores



since the pandemic began, from social distancing layouts to sanitizing stations to increased disinfectant protocols, all to ensure the safety of workers and consumers. Examples of essential items that retailers are relying on to keep their stores clean include disinfectants, dispensers of hand sanitizers, and the hand pumps designed for the dispensing of liquid hand soaps and sanitizers. The finished products into which the pumps are incorporated, deep cleansing hand soap and anti-bacterial hand sanitizers, are fundamental tools for retailers to prevent the spread of the COVID-19 virus through contact. Retailers are also reliant on the importation of the plastic pumps to meet the ongoing demand for soap and sanitizer sold here in the U.S. and exported globally. Re-imposing the tariff on pumps would increase the cost of the finished products for consumers at a time when they are still essential to fight the spread of COVID-19.

Tariffs are a tax on goods, and they make vital products more expensive for American businesses, consumers, and workers. Tariffs also force cash-strapped companies to pay the federal government billions of dollars that could instead be going towards preserving jobs, paying suppliers and fixed costs. They also prevent investments in critical health and safety equipment for their workers and customers to help the U.S. economy to reopen responsibly.

In conclusion, we strongly urge the Administration to extend the exclusions on these essential items as tariffs on COVID-related products will harm American businesses, workers, and consumers during an unparalleled crisis. Now more than ever, Americans need efficient access to critical products at an affordable price. We thank the USTR for giving us the opportunity to provide insight on behalf of our membership.

Sincerely,

A handwritten signature in blue ink, appearing to read "Austen Jensen".

Austen Jensen
Senior Vice President, Government Affairs
Retail Industry Leaders Association

