RETAIL INDUSTRY LEADERS ASSOCIATION

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Electronic Submission Via Regulations.gov

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

Re: Initiation of Section 301 Investigation: China's Acts, Policies, and Practices Targeting the Maritime, Logistics, and Shipbuilding Sectors for Dominance (Docket No. USTR-2024-0005)

Dear Ambassador Tai,

The Retail Industry Leaders Association (RILA) appreciates the opportunity to provide comments in response to the Office of the U.S. Trade Representative's (USTR) "Initiation of Section 301 Investigation: China's Acts, Policies, and Practices Targeting the Maritime, Logistics, and Shipbuilding Sectors for Dominance."

RILA is the U.S. trade association for leading retailers. 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 $2.7 trillion in annual sales, millions of American jobs, and hundreds of thousands of stores, manufacturing facilities, and distribution centers domestically and abroad.

RILA supports efforts to hold our trading partners accountable and using targeted trade tools to address unfair or discriminatory behavior. RILA does not support or condone unfair trade practices or discriminatory acts, policies, or practices by China that may have exacerbated or contributed to the decline in the U.S. shipbuilding sector in recent years. We urge USTR to thoroughly review the range of factors[1] that may have contributed to diminished U.S. market share and manufacturing capabilities as it conducts this investigation and to resist any calls to rush through the investigation.

Without prejudging the findings of this investigation, we want to raise at this early stage our concern with elements of the remedy requested by the petitioners should USTR determine that an act, policy, or practice of China is actionable under section 301 of the Trade Act of 1974. In particular, petitioners have

[1] According to a 2023 report from the Congressional Research Service on U.S. commercial shipbuilding, "the current state of the U.S. shipbuilding industry and "[t]he minuscule U.S. market share in shipbuilding long pre-dates China's ascent." For example, the report notes that "[i]n the 1970s, U.S. shipyards were building about 5% of the world's tonnage, equating to 15-25 new ships per year. In the 1980s, this fell to around five ships per year, which is the current rate of U.S. shipbuilding." In other words, the U.S. market share in shipbuilding has been declining over many decades and due to a number of reasons.

requested that a remedy include the imposition of a fee on every Chinese-built vessel that docks at a U.S. port.[2] Petitioners hypothesize that a $1 million port fee on a 20,000 twenty-foot equivalent units (TEU) cargo ship would "generate billions of dollars in revenue" while imposing "a cost of only $50 per container." Petitioners contend that this cost would be spread out amongst the products in each container such that "it would not meaningfully impact the cost to U.S. consumers of products delivered on Chinese built ships." We disagree.

More specifically, we believe that increased fees on Chinese-built vessels will impact U.S. consumers. Setting aside our understanding that cargo ships calling on U.S. ports are smaller than 20,000 TEU and would result in a higher per-container fee than what petitioners contend, common carriers operating ships subject to the fee will undoubtedly pass the cost on to U.S. importers who, in turn, are likely to pass this cost along in some form to American businesses and consumers. We know too well from experience with the section 301 tariffs on products from China that increased costs on products imported into the United States are paid by American businesses and consumers.[3] We believe this would also be the case with an increased fee on Chinese-built vessels.

Further, there are a number of open questions related to the proposed fee. For example, it is unclear whether the petitioners' proposed fee would apply at each port of call – such that a cargo ship that stops at multiple ports within the U.S. would be subject to a fee at each port. Depending on how the fee is structured, cargo ships could choose to call on alternative ports in Canada and Mexico, creating longer and more complex supply chains. In addition, this type of diversion would reduce activity at U.S. ports and negatively impact the 31 million American jobs that are dependent on that commercial activity. This type of diversion could have cascading effects on the economic wellbeing of surrounding communities. Also, it is unclear how much revenue would be sufficient to boost U.S. shipbuilding capacity and market share and whether Congress would need to act to create the special account that petitioners propose to fund capacity building. In any case, higher fees on cargo ships will ultimately be passed on to American businesses and consumers.

In addition to our concerns with the petitioners' proposed fee, we urge USTR to resist imposing new tariffs on imported products in connection with this investigation. American companies and consumers have already paid more than [$215 billion in tariffs] under section 301 on Chinese imports due to the administration's failed attempt to change China's behavior. With persistent inflation consuming the paychecks of American workers, additional tariffs on Chinese imports will only harm their purchasing power. Tariffs also harm the global competitiveness of U.S. businesses by increasing the cost of critical inputs for goods manufactured in the U.S. We urge the administration to explore a more strategic, targeted approach that does not disproportionately harm American businesses and consumers if it determines through this investigation that a remedy is warranted to address China's behavior.

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[2] *Petition for Relief Under Section 301 of the Trade Act of 1974, As Amended: China's Policies in the Maritime, Logistics, and Shipbuilding Sector*, §IV(A) (March 12, 2024).

[3] *See* "Economic Impact of the Section 232 and 301 Tariffs on U.S. Industries," U.S. International Trade Commission, p. 23 (March 2023, Corrected May 2023)("The Commission's econometric model estimates that tariffs under sections 232 and 301 resulted in a nearly one-to-one increase in prices of U.S. imports following the tariffs. This implies that a 10 percent ad valorem tariff raised the price of U.S. imports from China by about 10 percent. This nearly complete pass-through (meaning that prices received by exporters were largely unaffected and prices paid by U.S. importers increased by the same amount as the tariffs) is unusual but has been similarly found by other recent studies, which conclude that U.S. importers have borne almost the full burden of section 301 tariffs.")

Lastly, if USTR determines that China's acts, policies, or practices are actionable under section 301 of the Trade Act, we urge USTR to provide notice and an opportunity for public comment – including a public hearing – on any proposed remedy. RILA members are some of the largest importers in the nation and are on the frontlines of developing resilient supply chains that provide affordable, efficient, and reliable access to the goods that Americans rely on. Providing an opportunity for stakeholder input on any proposed remedy would give USTR the benefit of understanding potential impacts to supply chains, as well as American consumers, workers, and businesses. It would also give stakeholders an opportunity to suggest alternatives that USTR could pursue.

In conclusion, if USTR determines that an act, policy, or practice of China is actionable under section 301, we urge it to avoid implementing a new fee on cargo ships or imposing new tariffs on imports and instead consider more strategic and targeted measures as a potential remedy. We also urge USTR to provide notice and an opportunity for public comment – including a public hearing – on any proposed remedy in connection with this investigation.

Thank you for the opportunity to provide input on behalf of our membership.

Sincerely,

Blake Harden

Blake Harden
Vice President, International Trade
Retail Industry Leaders Association