

December 2, 2021

Philip Butler  
Associate General Counsel  
Office of the United States Trade Representative  
600 17th Street NW  
Washington, DC 20006

**Re: Request for Comments on the Possible Reinstatement of Certain Exclusions in the Section 301 Investigation of China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation (USTR-2021-22062)**

Dear Mr. Butler,

I am writing on behalf of the Coalition for a Prosperous America (CPA) to express concern over abuse of the process for reinstatements of exclusions from our Section 301 tariffs.

This process concluded on December 1, 2021, with 2,024 submissions. Sixty-three percent of these petitions were submitted on November 30 or December 1, and the vast majority in the few days leading up to the deadline.

Fairness demands that, as in USTR's previous 301 exclusion rounds or in the Miscellaneous Tariff Bill process, representatives of domestic manufacturers have the opportunity to rebut requests for tariff exclusions. However, your office elected to forgo rebuttals, leaving no opportunity for domestic producers to address unmerited submissions.

And it is quickly evident from the docket that the vast majority of submissions are unmerited. They overwhelmingly consist of unsubstantiated claims that the subject good is not available outside of China.

In the request for comments, USTR asked petitioners to detail "[t]he efforts, if any, the importers or U.S. purchasers have undertaken since September 2018 to source the product from the United States or third countries."

It does not appear that any petitioner offered evidence to substantiate efforts to source from outside China. From CPA's review, no petition documented any efforts to source from the United States or third countries.

The Retail Industry Leaders Association (RILA) is a case in point. The RILA filed 54 petitions. Each of these petitions was tailored to a particular exclusion, but the group used a generic, non-product specific letter for their petitions.

For example, in the RILA's submission for gun safes with digital keypads,<sup>1</sup> the RILA answered the question as to whether the product was available from sources in the United States as follows:

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<sup>1</sup> Submission ID USTR-2021-0019-59378

“To our knowledge, based on research, there is not a manufacturer available in the U.S. that is able to manufacture our quality of product at the price point our consumer needs. The use of a manufacture in the U.S. is not economically feasible as the goods cannot be produced at a price point needed for our consumers.”<sup>2</sup>

This is simply not true. Liberty Safe and Security Products, Inc. is a residential and commercial safe manufacturer located in Payson, Utah, United States. They are not a low-volume operation; they are the number one volume seller of residential safes in the United States. There are many more American producers of gun safes with digital keypads that match the RILA’s submission. And of course, there are many producers in third countries as well.

Another example is the RILA’s submission on textile face masks.<sup>3</sup> In this submission, the RILA only wrote “see attached” in response to the questions. However, the attached document was the RILA’s generic submission form that did not address face masks or any other product in particular. As USTR knows, there are countless suppliers of American-made textile face masks.

**CPA has high expectations that these baseless petitions will be scrutinized, and that a rebuttal period will be offered**

In the most recent Miscellaneous Tariff Bill (MTB) process, staff from the International Trade Administration (ITA) performed due diligence on the thousands of petitions for tariff waivers received, and were able to determine in hundreds of instances that there were indeed American manufacturers of the subject good, despite claims otherwise by the petitioner.

Staff from the ITA performed exemplary, doing their own research and proactively reaching out to domestic producers they identified.

The 2,024 submissions your office received deserve the same scrutiny provided by the ITA in the MTB process. CPA’s domestic producer members insist on the opportunity to rebut baseless claims as well.

Sincerely,

Charles Benoit

CPA Trade Counsel

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<sup>2</sup> *Id.*

<sup>3</sup> Submission ID USTR-2021-0019-60074