COALITION for a PROSPEROUS AMERICA

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Ambassador Katherine Tai
U.S. Trade Representative
600 17th Street NW
Washington, DC 20508

Re: Request for Comments: Four-Year Review of Actions in Sec. 301 Investigation of China. [Docket ID: USTR-2022-0014]

Dear Ambassador Tai:

Please find below the submission for the Coalition for a Prosperous America (CPA), with answers for Sections A and Sections B of the Request for Comment. For Section B of this submission, CPA is focusing on the automotive sector.

CPA members are part of a broad national coalition of domestic agricultural and manufacturing producers. Our coalition is overwhelmingly supportive of our Section 301 tariffs against merchandise from China. Many CPA members, whether individual producers or industry-specific associations, fear publicly expressing their support due to likely retaliation from China. They count on CPA to be their voice.

Section A. Effectiveness of the Actions & <u>Economy-wide</u> Comments

1. **Do you have views regarding the actions at an economy-wide level?**
    - [*Dropdown menu: "yes"*]

2. **"If you have views on the effectiveness of the actions in obtaining the elimination of China's acts, policies, and practices related to technology transfer, intellectual property and innovation, please discuss below."**
    - The Section 301 actions effective in eliminating some aspects of China's policies relating to technology transfer, intellectual property and innovation. Significantly, positive results were seen in China's loosening of certain joint venture requirements for foreign investment. Nonetheless, this is a small concession, and one which China had already made as part of its WTO accession commitments. And while there has been policy improvement, other unfair trade practices relating to intellectual property remain. For example, China has increased the use of 'anti-injunction orders' as a pseudo-judicial means of confiscating IP. This has been documented in many comments in recent years for USTR's China WTO

Compliance Report. USTR should return List 4A tariffs to their original threshold, and cancel the suspension of List 4B tariffs, to increase the pressure for reforms of these acts.

3. **"If you have views on changes in China's acts, policies, and practices related to technology transfer, intellectual property and innovation since 2018, please discuss below."**
    - *See response to question 2 above about JV requirements and anti-injunction orders. In Section B, we look to specific changes China undertook in the automotive sector in response to the Section 301 action.*

4. **"Please discuss the role of the actions in causing any such change."**
    - *See response to question 2 above about JV requirements and anti-injunction orders. In Section B, we look to specific changes China undertook in the automotive sector in response to the Section 301 action.*

5. **"If you have views on whether the actions counteract China's acts, policies, and practices related to technology transfer, intellectual property and innovation, please discuss below."**
    - The tariffs were critical in mitigating harm from China's practices related to technology transfer, intellectual property and innovation. Namely, they helped slow China's capturing of U.S. domestic market share. It also boosted U.S. supply chain resiliency, by encouraging sourcing decisions outside of China prior to the Covid pandemic lockdowns. Throughout China's 'Zero Covid' lockdowns, the U.S. economy was more resilient thanks to the Section 301 actions taken in 2018, which drove sourcing out of China.

6. **"If you have views on how the actions taken in the investigation could be modified to make them more effective in obtaining the elimination of or in counteracting China's acts, policies, and practices related to technology transfer, intellectual property, and innovation, please discuss below."**
    - The actions should be modified by acknowledging that China failed to meet the requirements of the Phase One deal, thus warranting returning the List 4A tariffs to 15% and cancelling the suspension of the List 4B tariffs. Furthermore, USTR should develop home-market valuation provisions as existed in prior U.S. Tariff Acts and apply those minimum valuation provisions to imports from China. This is essential to combat the rapid devaluation of China's currency, which is limiting the effectiveness of the action. Finally, USTR should also work with the U.S. Treasury and U.S. Customs and Border Protection to reintroduce the rule denying Section 321 eligibility for goods subject to Section 301 tariffs. This is because

after imposition of the Section 301 tariffs, many vendors in China began restructuring their shipments to assert eligibility under Section 321 and thus avoid Section 301 tariffs. This restructuring runs counter to the law and spirit of Section 321, and undermines the Section 301 action.

7. **"If you have views on any other actions that could be taken under Section 301 that would be more effective in obtaining the elimination of or in counteracting China's acts, policies, and practices related to technology transfer, intellectual property, and innovation, please discuss below."**

   USTR should develop minimum valuation provisions for Section 301 tariffs. For example, China has stolen much automotive technology from the United States, and the 25% additional Sec. 301 tariff has been invaluable in limiting the benefits China would otherwise receive from its unfair practices. To make this measure more effective, USTR should consider minimum valuation provisions for merchandise originating from China, ensuring that the minimum valuation corresponds to a valuation in the domestic American market.

8. **"If you have views on the economy-wide effects of the actions on the U.S. economy (including consumers), or on the economy-wide effects of other actions that could be taken under Section 301, please discuss below or in response to the following, more specific questions."**

   a) **"The economy-wide effects of the actions or other possible actions <u>on domestic manufacturing</u>, including in terms of capital investments, domestic capacity and production levels, industry concentration, and profits"**

   - The tariffs have led to a large reduction in bilateral trade and a restructuring of trade flows between China and the U.S. Business in several industries cite the tariffs as a driving factor for reshoring manufacturing back to the U.S. Some examples include furniture, plastics, and apparel companies. The tariffs have increased the cost of production in China, and therefore incentivized production to reshore or onshore to the U.S. to avoid the tariff. Other benefits from reshoring production to the U.S. include lower transportation costs, fewer supply chain snafus, and greater reliability of delivery.
   - Section 301 tariffs are partly responsible for an increase in reshoring manufacturing to the U.S. in 2019 after implementation. The largest reversal of import penetration in 2019 was in computers and related electronic products, a decrease of 27.2%, of which China is the largest supplier. Other examples include furniture maker Williams-Sonoma citing the tariffs as a cause of shifting production back to the U.S.

- The Section 301 tariffs also resulted in less foreign direct investment in China and more capital investment in the U.S. and among allies in Asia and North America as production has shifted out of China and into other production centers.
- The 301 action highlighted the IP theft risks that accompany decisions to source in China, which in turn has benefited domestic manufacturing.
- Many goods from China are still entering the U.S. market, but the tariffs are helpful nonetheless as they relieve the unfair price pressure somewhat.

b) "The economy-wide effects of the actions or other possible actions <u>on U.S. technology</u>, including in terms of U.S. technological leadership and U.S. technological development;"

- The 301 tariffs have helped drive investment in U.S. technology development, as products that were no longer made here are re-shored.
- The hardware companies in the U.S. technology industry have over the past 30 years sought increased profitability by reducing costs through offshoring production to Asia, especially China. By limiting the capability of companies to offshore production to China, the companies are incentivized to seek competitive advantage and higher profits through investment in new products and new technologies. Thus tariffs can play a role in increasing investment in innovation, in U.S. engineering talent, and in U.S.-based production facilities.

c) "The economy-wide effects of the actions or other possible actions <u>on U.S. workers</u>, including with respect to employment and wages"

Putting American workers into direct competition with Chinese workers puts downward pressure on U.S. wages. As CPA documented in a recent article on U.S. inequality, hourly-paid male workers have suffered a 9% fall in pay levels since 1979. China is a significant factor in the international competition that has depressed U.S. wages of semi-skilled and unskilled hourly workers. Further, minorities and the less educated are over-represented in the hourly paid workers category, meaning that the depressing effect of that international competition hits minorities and the less educated disproportionately.

d) "The economy-wide effects of the actions or other possible actions <u>on U.S. small businesses</u>"

Section 301 tariffs have helped small businesses compete with large companies and multinational companies that rely on cheap imports from China. In general,

small companies lack the capital and human resources to investigate opportunities to relocate their production centers to low-wage countries like China. Many of them have simply shut their doors in the last 20 years in the face of low-cost competition from U.S. or Chinese companies with production based in China. While the tariffs may have increased costs to some small businesses that rely on inputs that are imported from China, it has also helped protect other small businesses.

e) "The economy-wide effects of the actions or other possible actions on U.S. supply chain resilience or the goals of U.S. critical supply chains outlined in Executive Order 14017 and in subsequent reports and findings"

- Dislocations and supply chain snafus following the economy's resurgence in the fall of 2021, and continuing today, resulted in many shortages of goods in the U.S. in late 2021 and 2022. In cases like the shortage of semiconductors for automobiles, the shortages results in unemployment for U.S. workers. The Section 301 tariffs led directly to a diversification of U.S. supply chains, less dependence on China, and more alternative sources of supply. China remains the largest country of origin for imported goods to the U.S., but its share of imports to the U.S. has decreased by about 4% since the beginning of 2019. Many companies that export to the U.S. from China chose to relocate their manufacturing within Asia.

- An executive of a U.S. furniture manufacturer cited an increase in freight rates of 400-500% which pales in comparison to the 25% Section 301 tariff. Instead, the industry is focused on moving production closer to the markets where they serve consumers. As a result, the furniture industry is one example of the decentralization of production and instead prioritizing speed-to-market and supply chain resilience.

- As a result of the Section 301 tariffs, the U.S. has reduced its dependence on China and diversified its trading partners. While the tariffs alone cannot improve U.S. supply chain resilience, they are a first step toward decreasing reliance on China for critical imports and building resilience in the supply chain through rebuilding domestic manufacturing or moving production to allies.

f) "The economy-wide effects of the actions or other possible actions on U.S. consumers, including with respect to prices and product availability."

- The Section 301 tariffs have had no significant effect on U.S. consumer price inflation. In fact, after the tariffs went into effect, price levels decreased in 2019. Prices did not begin to accelerate until March 2021 due to the disruption caused by the Covid-19 pandemic and resulting supply chain disruption. As such, removal of the tariffs would not provide deflationary pressure to prices.

- American consumers have not paid the full rate of the tariff as the pass-through rate is not 100%. The share of the tariff paid by U.S. consumers is largely dependent on the elasticities and available substitutes for the tariffed goods in a particular market. There are several levels among which producers and distributors can absorb costs. Initial tranches in List 1 and 2 specifically focused on goods for which there are substitute goods available. The result was imports for such goods shifted to allies. For example, the share of mineral imports from Mexico grew and the share of imports for textiles from Southeast Asia grew.

B. AUTOMOTIVE INDUSTRY SPECIFIC COMMENTS

9. **"Do you have views regarding a specific sector or industry?"**
    - [*Dropdown menu: "yes"*]

10. "**Please describe the sector or industry of the U.S. economy upon which you wish to comment. Additional sectors or industries can be entered at the end of this section.**"
    - Automotive and automotive parts supply industry.

11. "**If you are aware of the primary North American Industry Classification System (NAICS) code associated with the sector you wish to comment on, please provide below. Please provide a 3- to 6-digit code.**"
    - 336: Transportation Equipment Manufacturing.

12. **"For the specific sector or industry identified, please address the extent to which goods within the sector or industry are or are not subject to the actions."**

    Finished passenger vehicles, classified under heading 8703 of the Harmonized Tariff System of the United State ("HTS"), were subject to the initial List 1 Action, which was published in the Federal Register on April 6, 2018. Many more automotive parts were included in List 1, List 3, and List 4A.

13. **"For the specific sector or industry identified, please address whether the actions – as applicable to goods within the sector or industry – are effective in obtaining the**

elimination of or in counteracting China's acts, policies, and practices related to technology transfer, intellectual property, and innovation?"

- The inclusion of passenger vehicles in the List 1 Action was effective in obtaining the elimination of China's Joint Venture requirements for non-Chinese automakers. Indeed, China announced the concession just one week after the publication of List 1. *See* Keith Bradsher, "China Loosens Foreign Auto Rules, in Potential Peace Offering to Trump", NY Times (April 17, 2018), *available at* https://www.nytimes.com/2018/04/17/business/china-auto-electric-cars-joint-venture.html. Eliminating Joint Venture requirements for automotive is something China had promised to undertake when it joined the WTO. See, specifically, Paragraph 203 of the Report of the Working Party ("Accession Report") attached to China's WTO Protocol of Accession. In our September 2020 submission to USTR for China's annual WTO compliance Report, CPA detailed how China spent a decade blowing off concerns expressed by the United States, Europe, and Japan at the WTO. The Section 301 actions were thus effective where working with allies through the WTO had failed.
- While the removal of the joint venture requirement was a welcome development, the Section 301 action was not effective at eliminating counteracting China's state-sponsored theft of intellectual property. Reuters reported in February, 2020, that "William Evanina, director of the National Counterintelligence and Security Center, said that among China's priorities was stealing U.S. aircraft and electric vehicle technology. In advance of Thursday's event, Evanina estimated the theft of American trade secrets by China costs the United States "anywhere from $300 to $600 billion" a year." *See* Mark Hosenball, David Brunnstrom, "To counter Huawei, U.S. could take 'controlling stake' in Ericsson, Nokia: attorney general", Reuters (Feb. 6, 2020), *available at* https://www.reuters.com/article/us-usa-china-espionage/fbi-points-to-china-as-biggest-u-s-law-enforcement-threat-idUSKBN2001DL"

14. "For the specific sector or industry identified, please address <u>whether other actions that could be taken under Section 301</u> – as applicable to goods within the sector or industry – <u>would be effective</u> in obtaining the elimination of or in counteracting China's acts, policies, and practices related to technology transfer, intellectual property, and innovation?"

Minimum valuation provisions should be incorporated into Section 301 tariffs, and merchandise from China should not be eligible for de minimis treatment. Lack of these tools, which are available under Section 301 and existing authority under Section 321 of the Tariff Act of 1930, undermines the Section 301 action.

15. **"For the specific sector or industry identified, please address the effects of the actions, or other actions that could be taken under Section 301, on the industry or sector, including effects on consumers of goods within the industry or sector. Your response to this question may consist of, or be supplemented by, the more specific questions below."**

    (a) **The effects of the actions or other actions that could be taken <u>on domestic manufacturing</u> within the sector or industry, <u>including in terms of capital investments, capacity and production levels, industry concentration, and profits?</u> To the extent possible, please quantify any changes.**

- The automobile industry remains critical to America's economy, accounting for $1.1 trillion or 5.5% of U.S. GDP, according to the Alliance for Automotive Innovation. In 2021, the automotive industry accounted for 11.4 percent of total U.S. manufacturing output.
- But the industry is a shadow of its former self. Between 1990-2018, autoworkers' real average hour earnings declined 17%. (Source: BLS study). The number of Americans working in U.S. motor vehicle manufacturing also declined 17%: from 281,600 in 1994 when NAFTA was implemented down to 233,700 workers in 2018. (Source: St. Louis Fed).
- The additional 25 percent tariff on imports of passenger vehicles from China was critical in stemming further losses.
- In 2015-2016, GM and Volvo began importing tens of thousands of cars from China. We went from only 1,067 light vehicles imported from China in 2015 to 4,199 in 2016, and 45,965 in 2017. (Source: ITA) Chinese state-owned car-maker SAIC was planning on entering the U.S. market, Ford had announced plans to import a compact crossover from China, the Ford Focus Active.
- China tariffs shut down the imminent giant loss in market share to China. SAIC abandoned plans to enter the U.S. market right after USTR's 301 investigation was launched.
- Ford abandoned its plans to import from China, and now never has.
- Volvo immediately stopped importing from China, switching sourcing to Europe, and now assembling in South Carolina.
- In 2016, Europe had a comparable level to the United States of imports of passenger vehicles from China (aprox. 50,000 vs. 60,100, respectively). If the United States had not imposed the additional 25% tariff on passenger vehicles from China, we would today see comparable levels of import penetration from China as Europe is currently experiencing.
- In 2021 Europe imported more than 500,000 Chinese vehicles, and that was more than double from 2020. The following are the annual quantities of vehicles imported to Europe from China:
    - 2016: 60,954
    - 2017: 99,854

    - 2018: 133,280
    - 2019: 133,465
    - 2020: 169,803
    - 2021: 435,080
    - (Source: https://www.acea.auto/figure/eu-passenger-car-imports-main-countries-of-origin-in-units/)
- By 2025, Europe expects to import 800,000 made-in-China cars, becoming a net-importer of cars for the first time: https://europe.autonews.com/automakers/chinese-electric-car-exports-europe-soar
- Indigenous Chinese electric vehicle automaker brands are also achieving widespread success in Europe, displacing European automakers in their home market. https://www.forbes.com/sites/neilwinton/2022/12/08/chinas-electric-car-assault-on-europe-will-accelerate-in-2023-then-hit-top-gear/
- The loss of domestic manufacturing capacity for Europe will be catastrophic. Meanwhile, in the United States, since the start of 2021, automakers have announced $75 billion in U.S. investments including new assembly and battery plants: https://www.autosinnovate.org/posts/press-release/new-data-on-economic-impact. Europe is not enjoying any similar growth.
- Regarding Other Actions that Could be Taken: Despite the additional 25 percent tariff, imports of made-in-China Buick Envision SUVs and Polestar 2 electric vehicles continue. As discussed further below, there was no price increase for the Buick Envision once the additional 25 percent tariff was applied (Polestar 2 vehicles arrived after the application of the tariff). USTR should adopt minimum valuation provisions for the importation of automobiles, to ensure these intra-company shipments are not under invoicing. USTR should also implement an additional tariff on merchandise from China that is designed to offset depreciation of China's currency.

(b) The effect of the actions or other actions that could be taken on U.S. workers within the sector or industry, including with respect to the level of employment and wages? To the extent possible, please quantify any impacts.

- In November, 2022, the Alliance for Automotive Innovation commissioned a study with the following findings:
    - Every direct job in vehicle manufacturing supports 10.5 additional American jobs;
    - Every $1 spent in vehicle manufacturing creates an additional $3.45 in economic value; and
    - 9.6 million American jobs are supported by the auto industry;
    - Source: https://www.autosinnovate.org/posts/press-release/new-data-on-economic-impact

(c) The effect of the actions or other actions that could be taken on U.S. small businesses within the sector or industry?

- According to the Alliance for Automotive Innovation, auto manufacturing "drives $1.1 trillion into the economy each year through the sales and servicing of autos and flows through the economy, from revenue to parts suppliers to paychecks for assembly plant workers, from income for auto-related small business to revenue for government."
- Vehicle imports from overseas, especially those from China, displace almost all of the downstream benefits to U.S. small business. It is imperative that USTR take all steps at its disposal to limit vehicle imports from China.

(d) The effect of the actions or other actions that could be taken in terms <u>of shifting supply chains for the sector or industry away from China</u>?

- As discussed above, the Section 301 tariffs on vehicles from China led to the immediate shifting of sourcing away from China for finished vehicles, notably Volvo and Ford models.
- The Section 301 tariffs on automotive parts has had a similar affect on the automotive supply chain, which in turn is driving manufacturing back to the United States as well as more reliable countries away from China: *See* Peter Campbell, "Carmakers quietly cut ties with China in supply chain shake-up", Financial Times, Dec. 22, 2022, *available at* https://www.ft.com/content/d88955d4-2bc8-476e-9cdb-882ca3c3b10d

(e) The effect of the actions or other actions that could be taken <u>on supply chain resilience within the sector or industry</u>, including inventory practices and lead times for upstream intermediate inputs and capital equipment?

- Troublingly, auto parts vendors are increasingly shipping parts into the United States with so-called "de minimis" treatment, available under Section 321 of the Tariff Act of 1930. In 2020, USTR worked with CBP and Treasury to introduce a rule denying de minimis treatment for merchandise subject to Section 301 actions. Unfortunately, that rule did not survive the regulatory reset during the changing Administrations. It is imperative that USTR again cause this rule to be introduced.

(f) The effects of the actions or other possible actions on U.S. supply chain resilience or the goals of U.S. critical supply chains outlined in Executive Order 14017 and in subsequent reports and findings?

- As detailed above, the Section 301 tariffs have led to supply chain shifts that further the policy detailed in Section 1 of Executive Order 14017.
- USTR should announce that lithium batteries, currently subject to List 4A's 7.5% tariff, will be subject to a 25% tariff beginning July 1, 2025. This will accelerate investment in furtherance of E.O. 14017.

(g) The effects of the actions or other actions that could be taken on consumers of goods within the industry or sector, including with respect to prices and product availability?

Section 301 tariffs have not hurt U.S. consumers either through increased prices or by availability. In November 2015, GM reported that it would start importing the Buick Envision from China, built with its joint venture partner, SAIC Motors, which is a Chinese state-owned enterprise. General Motors was on the path of merely being a brand collecting royalties, like Nike, letting Chinese SOEs undertake the manufacturing. In 2016, vessels loaded with tens of thousands of Made-in-China Buick Envisions started arriving in U.S. ports. The MSRP was $38,645.

In March, 2018, USTR published its findings of fact into its China trade investigation. USTR's fact finding report cited outside media reports to show how American automakers had been cheated by Chinese government policy that ran contrary to their WTO commitments. (See pg. 28, 32 of Fact Finding Report). Nonetheless, GM asked USTR for tariff waiver on the Buick Envision. Media reports warned that the Buick Envision may cost $8,000 more thanks to the tariffs. USTR was unpersuaded and denied GM's tariff waiver request in June 2019. In the denial, USTR pointed out that cars were part of the CCP's "Made in China 2025" plan to dominate manufacturing. The thinking in the administration was understandable—there was little reason for the United States to support Beijing's long-term goals at the expense of U.S. car manufacturers.

Despite the press warnings, the Buick Envision's price did not increase following imposition of the tariffs. Not only did the car's price not jump by the predicted $8,000, it actually became cheaper for U.S. consumers the following year. This is most likely because China was so determined to keep exporting to the U.S. that it directed SAIC-GM to absorb the entire tariff.

The Buick Envision Preferred Trim went from $38,645 pre-tariff to $34,695 post-tariff, and then, yet again for the 2021 model year, it fell another $1,700 to an MSRP of $32,995. All of this even with a 25 percent import tariff. Ultimately, Chinese SOEs and the Chinese government will gladly do whatever it takes, including devaluing their currency, to ensure its factories operate at full capacity.

Indeed, U.S. consumers are fortunate that more vehicle production did not relocate to China, as China's "zero Covid" disruptions would have had a much worse impact on product availability.