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THE US-CHINA BUSINESS COUNCIL
美中贸易全国委员会

October 17, 2018

Minister Liu Kun
Ministry of Finance of the People's Republic of China
Beijing, China

Dear Minister Liu,

For the last 45 years, the US-China Business Council (USCBC) and its more than 200 member companies, comprised primarily of US multinational companies, have been partners contributing to China's development. Our members operate across a range of industries, and are dedicated to the China market.

USCBC and its member companies firmly oppose the use of tariffs—both by the United States and China—in the escalating US-China trade conflict. Tariffs increase costs for businesses and consumers in both countries without meaningfully addressing the fundamental issues that prompted them.

We are pleased to see that throughout this process, the Ministry of Finance (MOF) publicly released lists of products to be subject to tariffs prior to their implementation, and the Ministry of Commerce (MOFCOM) reached out to stakeholders to assess the impacts of these tariffs on China's domestic economy. We believe that a transparent public comment period before tariffs are implemented, as well as an exclusion process after they are in place, would provide further benefits to industry, and ultimately, Chinese consumers.

Public Comment Period

The United States government has held public hearings and comment periods in all of its Section 232 and Section 301 investigations to gather stakeholder input. Comments were submitted online via the Federal Register (www.federalregister.gov), and all submissions can be publicly viewed at www.regulations.gov.

While MOFCOM also informally consulted with stakeholders, due the wide breadth of products involved in international trade and complicated nature of supply chains, it is difficult for any government to comprehensively assess which stakeholders might be important to consult without openly soliciting industry input. Thus, we recommend that, in the case of future tariffs, China hold an open and transparent public comment period to fully consider the impact that they will have on industry and consumers.

We recommend that such a public comment process:

- Be open to both domestic Chinese companies and foreign companies that import products into China in order to comprehensively assess the impact of tariffs on the domestic economy.
- Leave at least 30 days for the public to submit comments, so that stakeholders can provide thoughtful feedback to benefit the policymaking process.
- Have a dedicated website where stakeholders may submit comments. The website should publicly display comments submitted by all stakeholders, with the exception of business confidential information. The Chinese government should protect any sensitive business information or trade secrets that are submitted as part of the comment process.

Tariff Exclusion Process

While the US government so far has had a process to consider exclusions of certain products from these tariffs, the lack of a similar formal exclusion process in China will make the negative impact of tariffs on the Chinese economy and consumers even more pronounced. We request that MOF establish a similar process to exclude products classified within a tariff code under the Import and Export Tariff Regulations of the People's Republic of China that meet the necessary conditions.

Due to the complexities of modern supply chains and the wide variety of business interests, it is difficult for governments to fully grasp the consequences that tariffs on certain products will have. It is valuable to comprehensively consider industry input, from companies both foreign and domestic, when determining on which products to impose tariffs.

In gathering industry input, it is also critical to have a transparent procedure for companies to submit their feedback, so that requests are considered fairly across companies of different sizes, industries, and shareholder nationalities.

Should you establish a formal exclusion system, we recommend that:

- Product exclusions should equally apply to all companies, both domestic and foreign, that import that product into China. The issuance of a product exclusion should resolve all pending requests for that product.
- Product exclusions should not be time-limited, but continue through the duration of the additional tariffs. Product exclusions should take effect retroactively as of the date the tariffs were applied.
- Applicants should be able to file one submission covering multiple products that are subject to additional tariffs in order to streamline the application and review process.
- A dedicated website be established to process product exclusion requests and provide applicants with timely updates on their application and review status. The Chinese government should protect sensitive business information and trade secrets if companies submit these in the application process.
- Clear requirements for what must be included in application materials should be published, and procedures should be established to ensure that Chinese government staff reviewing product exclusion requests apply common criteria in a consistent manner.

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These recommendations will allow for different industry stakeholders to submit their exclusion requests in a fair, transparent manner. USCBC raised many of these same suggestions with the US government as they designed their exclusion process for the Section 301 tariffs, and we continue to urge the US government to be responsive to businesses who find their supply chains jeopardized by the unintended consequences of these tariffs.

Should you have any questions about the US public comment period, tariff exclusion system, or related best practices, we would be happy to draw on the expertise of our membership to provide further input. We are grateful for your consideration of this request.

Sincerely,

Craig Allen
President
US-China Business Council

CC:
National Development and Reform Commission Vice Chairman Ning Jizhe
Ministry of Commerce Vice Minister Wang Shouwen
China Council for the Promotion of International Trade Chairperson Gao Yan