Meat Institute
Nourishing Today
Sustaining Tomorrow

June 24, 2024

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Office of the United States Trade Representative
600 17th St NW
Washington, DC 20006

Re: Docket Number USTR-2024-0007, *Request for Comments: Proposed Modifications to the Section 301 Actions and Proposed Exclusion Process*

The Meat Institute appreciates the opportunity to submit comments to the Office of the U.S. Trade Representative (USTR) in response to Docket Number USTR-2024-0007, "Request for Comments: Proposed Modifications to the Section 301 Actions and Proposed Exclusion Process."

The Meat Institute is the United States' oldest and largest trade association representing packers and processors of beef, pork, lamb, veal, turkey, and processed meat products, and Meat Institute member companies account for more than 95 percent of U.S. output of these products. The Meat Institute provides legislative, regulatory, international affairs, public relations, technical, scientific, and educational services to the meat and poultry packing and processing industry.

The U.S. meat and poultry industry is the economic engine powering the agriculture sector. According to the U.S. Census Bureau, meat and poultry processing is a $227.9 billion industry. Meat and poultry packers and processors employ more than 532,000 workers paying average hourly wages of $22. In 2021, the meat and poultry industry produced 27.95 billion pounds of beef, 27.67 billion pounds of pork, 53.2 million pounds of veal, 138.4 million pounds of lamb and mutton, and 50.4 billion pounds of poultry.[1] Based on USDA Economic Research Service trade multipliers, in 2021, U.S. meat and poultry exports contributed additional export activity of more than $44 billion,[2] supporting workers, communities, producers, and companies along the meat and poultry supply chain.

The domestic U.S. meat and poultry industry's long-term economic viability, though, depends on robust international trade, including with China, particularly as domestic per capita consumption of meat and poultry remains stable, and 95 percent of consumers live outside the United States. International trade is, therefore, vital to the long-term strength of the U.S. meat and poultry industry, the workers it supports, and the communities it sustains. In 2023, U.S. meat and poultry exports exceeded $23.6 billion. Annually, approximately 13 percent of beef production, 15 percent of poultry production, and 25 percent of pork production are exported, although those figures have been higher in recent years.[3] Exports underpin the entire meat and poultry supply chain because they add value to every animal produced and in turn increase demand for U.S. livestock, poultry, corn, and soybeans. In 2023, China was the U.S. beef and pork industries' third largest value

[1] Industry At a Glance, Meat Institute, https://www.meatinstitute.org/Industry_at_a_Glance
[2] USDA-ERS Agricultural Trade Multipliers, https://data.ers.usda.gov/ATM.aspx
[3] USDA GATS Data, accessed February 2024, https://apps.fas.usda.gov/gats/default.aspx

market and the U.S. poultry industry's second largest value destination, representing the critical importance of the market for U.S. meat and poultry exporters.

The Meat Institute appreciates USTR's work over the past several years to hold China accountable for its acts, policies, and practices related to technology transfer, intellectual property, and innovation, including attempts to create a more even playing field for American companies and workers. We recognize the diversity of industries and sectors that are impacted by China's specious policies and understand the U.S. government's interest in addressing those legitimate concerns. However, the Meat Institute continues to respectfully oppose USTR's Section 301 policy. The U.S. agricultural sector, and the U.S. meat and poultry industry, have disproportionately borne the brunt of China's retaliatory measures stemming from U.S.-imposed Section 301 tariffs on Chinese imports. Concurrently, the Section 301 tariffs have only disadvantaged U.S. meat exports to China and have failed to encourage the Chinese government to comply with or enforce key provisions in the U.S.-China Phase One Agreement, which, if fully implemented, would further benefit U.S. meat and poultry exports to the Chinese market. Because USTR's Section 301 tariff policy has not yielded meaningful improvements in China's regulations related to U.S. meat and poultry exports, and because of the significant impact the policy has inflicted on U.S. pork exports, in particular, the Meat Institute opposes USTR's adoption of its proposed modifications, which include tariff increases, to its Section 301 actions. Instead, the Meat Institute recommends the discontinuation of Section 301 tariffs.

Studies Show U.S. Agriculture is Disadvantaged by Section 301 Actions

Extensive research conducted since the introduction of USTR's Section 301 tariffs finds significant adverse effects of the policy not only for U.S. agricultural exports, but also for the American communities and workers they sustain. USTR's report, "Four-Year Review of Actions Taken in the Section 301 Investigation: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation" (USTR's Section 301 Report), cites multiple analyses that detail the deleterious consequences of the Section 301 tariffs for U.S. agricultural exports and communities, demonstrating the policy's inadequacy for the U.S. agriculture sector.

According to research presented in USTR's Section 301 Report, China's duties reduced certain U.S. counties' total exports and adversely impacted local labor markets, especially for counties most exposed to trade. Specifically, the research found a 0.75 percentage point decline in employment growth for counties relatively more exposed to trade, and that estimate more than doubled to 1.7 percentage points for goods-producing employees in sectors such as mining, ***agriculture***, manufacturing, and construction activities.[4] In fact, USTR's Section 301 Report offers research by Autor et al. that finds while U.S. tariffs had no significant negative or positive effects on overall U.S. employment, China's application of retaliatory tariffs generated significant negative employment impacts in the United States. Furthermore, the Section 301 Report concedes that the $23.3 billion the U.S. Department of Agriculture provided to U.S. farm producers during 2018 and 2019 under the Market Facilitation Programs offset the impacts of China's retaliatory tariffs to only a minor degree.[5] Moreover, estimates of real wages detailed in the Section 301 report indicate that those wages fell by 1 percent on average in tradable sectors, that all U.S. counties experienced declines in real wages in the short run, and that there was significant variation in the magnitude across counties. In fact, the data suggests that counties in

[4] Four-Year Review of Actions Taken in the Section 301 Investigation: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation, USTR, https://ustr.gov/sites/default/files/05.14.2024%20Four%20Year%20Review%20of%20China%20Tech%20Transfer%20Section%20301%20(Final).pdf
[5] Ibid.

the Great Lakes Region of the Midwest and the Industrial Northeast tended to benefit from protection from import competition, whereas counties in the Great Plains and Mountain West tended to be relatively more negatively impacted, largely because of the importance of agricultural exports – that were targeted by retaliatory tariffs – to those regions.[6]

Furthermore, in "The Economic Impacts of Retaliatory Tariffs on U.S. Agriculture," Morgan et al. demonstrated that retaliatory tariffs imposed by multiple trading partners increased the price of U.S. agricultural exports in those markets relative to alternatives that were either domestically produced or imported from other international sources. The authors found that despite opportunities for U.S. producers to sell their products to non-retaliating trading partners, U.S. agricultural exports fell overall.[7] Additionally, Morgan et al. concluded that retaliatory tariffs by all trading partners in 2018-2019 led to a significant reduction in U.S. agricultural exports, but that China's retaliatory tariffs accounted for 95 percent of agricultural export losses by 2019, totaling $25.7 billion.[8] Pork exports, per this study, declined precipitously, falling $646 million in annualized losses. State level data, meanwhile, confirmed findings by other researchers: losses were largely concentrated in the Midwest, with Iowa ($1.46 billion in annualized losses), Illinois ($1.41 billion in annualized losses), and Kansas ($955 million in annualized losses), accounting for approximately 11, 11, and 7 percent, respectively, of the total losses. States that produced more of the commodities most severely targeted by retaliation, like pork and other agricultural products, experienced higher losses.[9] It's important to note that subsequent rebounds in U.S. agricultural exports to China have not resulted from trade policy decisions, but have instead been driven by external factors, including China's pig-herd recovery in the wake of African Swine Fever (ASF) and resulting increased feed demand, according to USDA's Economic Research Service.

U.S. Pork Exports Continue to be Disadvantaged by China's Retaliatory Tariffs

Following implementation of Section 232 and Section 301 tariffs on Chinese imports during the Trump Administration, China imposed Section 232 and 301 retaliatory tariffs on U.S. pork exports and Section 301 retaliatory tariffs on U.S. beef exports, which remain in place. In March 2020, China subsequently implemented an exemption process for Section 301 retaliatory duties, which helped underpin growth in U.S. beef and pork exports, though that exclusion process is not guaranteed to remain in place and could be reversed should USTR finalize the modifications outlined in Docket 2024-0007. Although this docket does not address Section 232 tariffs, it's nonetheless critical to underscore the scope and severity of China's retaliation against U.S. meat exports, and pork products, in particular.

Currently, U.S. pork exports to China face a 25 percent retaliatory tariff on top of the most-favored-nation (MFN) rate of 8 percent, which has left the U.S. pork industry at a significant disadvantage compared to China's other pork suppliers. Meanwhile, most U.S. pork offals contend with a 37 percent tariff rate, which includes an MFN tariff of 12 percent and the Section 232 25 percent tariff. Those rates would jump to more than 60 percent – between 63 and 67 percent – if waivers for the Section 301 tariffs no longer apply. U.S. beef exports, which are only subject to Section 301, not Section 232 retaliatory tariffs, have similarly benefited from the Section 301 waivers, and must only now pay the MFN rate of 12 percent. Should waivers for the Section 301 retaliatory tariffs cease, U.S. beef exports would be forced to pay duties in excess of 40 percent. These retaliatory tariffs not

[6] Ibid.
[7] "The Economic Impacts of Retaliatory Tariffs on U.S. Agriculture," Morgan, Stephen, et al., USDA-ERS, https://www.ers.usda.gov/webdocs/publications/102980/err-304_summary.pdf?v=9764.9
[8] Ibid.
[9] Ibid.

only make U.S. exporters of beef, and particularly pork, less competitive, but they also yield reduced prices for U.S. pork producers, packers, and processors along the supply chain, which translates to depressed wages for American workers and less revenue for communities that rely on agricultural trade.

Furthermore, U.S. pork exports to China reached a record $2.28 billion in 2020, but subsequently declined to $1.7 billion in 2021, falling further to $1.36 billion in 2022, and finally decreasing again in 2023 to $1.24 billion, below previous estimates of $1.33 billion.[10] These declines are partly due to China's pork production rebounding following the introduction of ASF in the country but are mostly related to China's retaliatory duties on U.S. pork products that continue to limit U.S. market share and export potential.

As previously mentioned, China remains the third largest export market for U.S. beef and pork products, by value, and while the Meat Institute appreciates USTR's ongoing work to diversify U.S. agricultural supply chains and markets, there is no replacement for the China market. Unfortunately, U.S. pork exporters, who supply high-quality, consistent products to Chinese customers and consumers, continue to cede hard-fought market access to foreign competitors because of retaliation for U.S. trade and tariff policies. In fact, U.S. meat exporters, and U.S. agricultural producers, have disproportionately faced the detrimental consequences of China's retaliation for U.S. policies that have largely targeted China's technology, intellectual property, national security, and manufacturing sectors, not its agricultural sector.

Because China maintains its Section 301 retaliatory tariffs, subject to waivers, on U.S. meat exports, any action by USTR to escalate tensions regarding these Section 301 retaliatory tariffs could result in the immediate suspension by China of waivers for U.S. beef and pork products. Reimposition of those Section 301 tariffs, as aforesaid, would undermine the progress that has been made since the U.S.-China Phase One Agreement entered into force in 2020, would further depress revenues for U.S. agricultural producers and workers, and would substantially reduce U.S. exports of beef, pork, and attendant products to China, as importers there would seek more competitive alternative suppliers. U.S. exporters would not be able to divert many of these products to other markets, with different consumer preferences and customer bases, and the domestic U.S. market would not easily absorb products destined to China, causing a significant share of those exports to be discarded or destroyed, yielding even less value for U.S. companies, and in turn, causing some smaller- and medium-sized plants to lay off workers or shutter completely – values that are at odds with the Administration's worker-centric trade policy.

China Continues to Renege on Commitments Made in the U.S.-China Phase One Agreement

The U.S. meat and poultry industry has benefited from significant market access gains under the U.S.-China Phase One Agreement. The Meat Institute appreciates USTR's work to secure the agreement, which expanded eligibility for nearly all U.S. beef cuts from cattle of all ages, provided for the adoption of Codex maximum residue limits (MRLs) for growth promoting hormones in beef, increased the number of beef and pork plants approved to export, and provided eligibility for further processed products, among other gains. However, barriers to trade remain, including China's requirement that U.S. pork imports be accompanied by ractopamine-free certificates of analysis, even though all U.S. pork destined for China is being produced under ractopamine-free verification programs; China's zero-tolerance policy regarding pathogens on the surface of raw pork and beef imports; and China's ban on the use of Codex and FDA-approved beta agonists.

[10] FAS GATS Data, https://apps.fas.usda.gov/gats/default.aspx

Additionally, although the Phase One Agreement has significantly simplified the establishment registration process for U.S. meat and poultry export facilities, China, for more than half of 2023, did not update the approved U.S. establishment list nor did the country process administrative revisions to that list, failing to fulfill core tenets agreed to in the Phase One Agreement. Specifically, under the Phase One Agreement, China is obligated to update its approved plant list within 20 days of receiving updated lists from the Food Safety and Inspection Service.[11]

Although China finally did start adding U.S. establishments to its approved plant list in late 2023 – thanks to substantial outreach and engagement from the U.S. government – the country's General Administration of Customs (GACC) has, in direct violation of the Phase One Agreement, suspended a growing number of U.S. beef export establishments for ractopamine findings. While GACC maintains a zero-tolerance policy for ractopamine in beef, Annex 7, provision 4 of the Phase One Agreement, provides, "if China determines, based on scientific inspection, that a particular shipment of U.S. meat or poultry products is in violation of applicable food safety import requirements, China may refuse importation of that shipment." However, the Agreement explicitly states that "a significant, sustained or recurring pattern of non-conformity with an applicable food safety measure [ie. a ractopamine finding]" must be established before China may refuse to accept shipments from an establishment – suspend a facility's export eligibility.[12] In recent weeks, China has moved to suspend multiple additional U.S. export facilities, including a cold storage establishment, in a sign of retaliatory escalation in response to USTR's Section 301 announcement. In each of these instances, U.S. beef export facilities were suspended upon their first ractopamine finding, not following a period of repeated violations, and each of the establishments subsequently reviewed and revised internal processes and controls to prevent recurrences.

Annex 7 provision 5 of the Phase One Agreement, meanwhile, compels China to conduct, in consultation with U.S. experts, a risk assessment for ractopamine in cattle and swine without undue delay, and in a manner consistent both with Codex and FAO/World Health Organization (WHO) Joint Expert Committee on Food Additives (JECFA) risk assessment guidance and with the risk assessment for ractopamine previously conducted by the FAO/WHO JECFA. China, to date, has reneged on this commitment.[13]

GACC's consistent, overt disregard for the provisions agreed to in the Phase One Agreement is directly undermining U.S. meat and poultry export potential to China and adds arbitrary, capricious complexity to the export process. It is clear China has not adequately implemented the Phase One Agreement and has frequently acted in direct defiance of its obligations to the detriment of U.S. meat and poultry exporters who have benefitted from its entry into force, but whose export potential remains constrained by GACC's selective, nefarious application of the Agreement's provisions. It is equally evident that USTR's Section 301 investigation, as it pertains to agricultural exports, has only inflamed and deepened tensions with China – it has not elicited compliance with or enforcement of the Phase One Agreement. Continuing to pursue escalatory trade policy, such as this proposal to modify and increase Section 301 tariffs, will undoubtedly invite similarly devastating escalatory retaliation from China that would only serve to further jeopardize the ability of U.S. agricultural exporters to access the China market on a level playing field. This will also lead to increased prices, domestically, as U.S. importers absorb the cost of these tariff increases, thereby nullifying progress the Administration has made to combat inflation and further straining American consumers.

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[11] U.S.-China Phase One Agreement, USTR, https://ustr.gov/sites/default/files/files/agreements/phase%20one%20agreement/Economic_And_Trade_Agreement_Between_The_United_States_And_China_Text.pdf

[12] Ibid.

[13] Ibid.

<u>Diversification Through a Comprehensive Trade Policy is More Prudent than Escalating Tariffs</u>

As USTR considers the many tools at its disposal to address China's acts, policies, and practices related to technology transfer, intellectual property, and innovation, the Meat Institute respectfully urges USTR to pursue a comprehensive trade strategy that promotes market diversification through the reduction and elimination of onerous import restrictions, prohibitive tariffs, and other unwarranted non-tariff barriers. A tit-for-tat exercise in tariff escalation does not make U.S. supply chains or key economic sectors, like agriculture, more secure or resilient. Instead, such a policy increases costs for consumers, importers, and exporters, constrains the ability of small- and medium-sized companies to grow and compete in the global marketplace, and is antithetical to the Administration's pursuit of a worker-centric trade agenda.

As the foregoing comments have demonstrated, USTR's existing Section 301 tariffs have reduced U.S. agricultural export potential, particularly for U.S. pork products, and have not resulted in corresponding improvements in China's compliance with or adherence to policies agreed to by both countries in the Phase One Agreement, for example. Instead, China has only grown more defiant in its disregard for trade commitments it has made and has not faced enforceable consequences for reneging on those obligations. The Meat Institute recognizes USTR's work – along with the efforts of other U.S. government departments and agencies – to compel China to comply with its trade commitments, and we understand that the complexity of the U.S.-China relationship often stymies progress. However, to truly counter China's influence, the U.S. cannot abdicate its leadership role in the trade arena. On the contrary, the U.S. should reconsider its position of abandoning enforceable, standard-setting, comprehensive free trade agreements that simultaneously include strong environmental and labor provisions.

Holding China accountable through a tariff policy, such as the one pursued in this proposed Section 301 effort, without a corresponding strategy to reassert U.S. leadership with allies and in key regions, like the Asia-Pacific, Africa, and the Americas, will only pave the way for China to wield increasing influence and to write the rules of trade to unfairly bolster its domestic industries. This will have far-reaching consequences for U.S. exporters in third markets that negotiate favorable trade terms with China, which is forcefully, and swiftly, negotiating FTAs that shirk internationally recognized standards and squeeze U.S. access to growing and mature markets, alike. Accelerating U.S. meat and poultry export growth through trade liberalization, on the other hand, boosts value and improves returns for U.S. producers and companies along the supply chain, which, in turn, supports American workers and communities.

The trade initiatives USTR is pursuing in Taiwan, Kenya, the Indo-Pacific, the Americas, and elsewhere provide important opportunities to bolster fair and resilient agricultural trade, but those opportunities can only be fully realized if meaningful relief from non-tariff barriers is paired with comparable reductions in tariff rates. These negotiations also provide more appropriate opportunities than provocative tariff policies to counter China by deepening U.S. economic engagement and integration in diverse and strategically critical regions. Preserving existing agreements, while indispensable, and negotiating narrow, more targeted economic frameworks will be insufficient to guarantee export growth or the economic benefits it confers, nor will doing so ensure the U.S. remains competitive in an increasingly interdependent trade environment that features an aggressive, ascendant China. For instance, while the U.S. has completed four trade agreements since 2010, including renegotiating USMCA, China has entered into 10 new agreements, Japan has inked seven, and the EU and Canada have finalized eight.

USTR can, and certainly should, identify opportunities to hold China accountable for their unfair policies and acts, but, as we have seen, this Section 301 approach has failed to produce positive results for American agricultural workers, businesses, and communities. Introducing meaningful agricultural trade text as part of Americas Partnership for Economic Prosperity negotiations, for instance, coupled with further integration within the USMCA region and with trade agreement partners in the western hemisphere, such as CAFTA-DR, Colombia, and Peru would be a prudent approach by the U.S. government to challenge China's increasing engagement in Latin America, as demonstrated by its growing number of FTAs in the region and its infrastructure initiatives there through its Belt and Road Initiative. At the same time, pursuing trade-facilitative measures in the ASEAN region, including duty reductions, will yield long-term benefits for the U.S. meat and poultry industry, by injecting more predictability and transparency into business decisions and ensuring U.S. meat and poultry supply chains are not overly dependent on one region. The U.S. can more effectively put pressure on China by offering a comprehensive and enforceable trade strategy, like its former Trans-Pacific Partnership, in Asia to offset potential gains expected from China's Regional Comprehensive Economic Partnership.

Policies that open markets and reduce trade barriers enable domestic companies, especially small- and medium-sized U.S. meat and poultry packers and processors, to more effectively plan production, make sourcing decisions, and establish export processes. This benefits all parties, including producers, farmers, ranchers, cold storage facilities, truckers, end users, and others, along the supply chain. This strategy, simultaneously, eases overreliance on China without inflaming trade relations with a major trading partner and one that cannot be replaced.

Therefore, the Meat Institute urges USTR against imposing the proposed modifications to the Section 301 actions and respectfully requests that USTR pursue a whole-of-government approach with other U.S. government departments and agencies to find alternative solutions to hold China accountable for its actions. The Section 301 tariffs and resulting retaliatory measures imposed by China have caused undue harm to U.S. agricultural exports, including meat exports. U.S. trade policy, such as the one proposed in this Section 301 action, should not inflict pain on domestic producers, companies, and workers, as this one has and will continue to do if implemented. Instead, restoring U.S. leadership in international trade through the pursuit of high-standard, comprehensive trade agreements that level the playing field for American companies and workers would be a more effective long-term strategy to counter the legitimate concerns USTR attempts to solve in this rulemaking. Market diversification initiatives, coupled with strategic competition with China, will lift all sectors of the U.S. economy without exacerbating tensions or existing economic hardship. However, as long as these Section 301 tariffs remain in place, USTR should provide a robust, fair, and transparent exclusion process for *all products* that remain subject to the Section 301 China tariffs.

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Thank you for your attention to and consideration of these comments. The Meat Institute stands ready to support USTR's efforts to expand market access for U.S. meat and poultry products, globally, and to hold China to trade commitments it has made without undermining our important bilateral trade relationship. Please contact me if you have questions.

Respectfully submitted,

Julie Anna Potts

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