

United States Senate

WASHINGTON, DC 20510

October 18, 2018

The Honorable Robert Lighthizer
United States Trade Representative
Office of the United States Trade Representative
600 17th Street NW
Washington, DC 20508

Dear Ambassador Lighthizer:

We write to raise concerns regarding the recently implemented 10 percent tariffs on \$200 billion of imported Chinese goods (Round 3) pursuant to Section 301 of the Trade Act of 1974. Specifically, we have concerns about the United States Trade Representative's (USTR) decision not to include an exclusions process in this latest round of tariffs. The decision not to include an exclusions application process will have a negative impact on American businesses and American consumers. Given the 10 percent tariff is scheduled to rise to 25 percent on January 1, we urge you to immediately reconsider this decision.

China has engaged in unfair trade practices that harm American workers. Those practices must be addressed to ensure that our workers can compete on a fair playing field. However, without an exclusion process, the ability to compete fairly may be unnecessarily impacted for U.S. workers and manufacturers that rely on global supply chains. Goods that are covered by Round 3 of the 301 tariffs should be given the same access to exclusions as were in Round 1 and Round 2. In the September 18, 2018 Federal Register, USTR acknowledged this potential harm and laid out a process to apply for exclusions, writing:

"During the notice and comment process, a number of interested persons asserted that specific products within a particular tariff subheading only were available from China, that the imposition of additional duties on the specific products would cause severe economic harm to a U.S. interest, and that the specific products were not strategically important or related to the 'Made in China 2025' program. In light of such concerns, the Trade Representative determined to establish a process by which U.S. stakeholders may request that particular products classified within a covered HTSUS [Harmonized Tariff Schedule of the United States] subheading be excluded from the additional action."

That same consideration has not been extended to the most recent round of tariffs. It should. While Rounds 1 and 2 covered \$50 billion in goods, Round 3 covers \$200 billion alone.

The 301 investigation, under the Trade Act of 1974, was initiated to investigate whether, "China's acts, policies, and practices related to technology transfer, intellectual property, and innovation are unreasonable or discriminatory, and burden or restrict U.S. commerce." Round 1 and Round 2 included products mostly related to technology and included an exclusions process. Round 3 includes items such as backpacks, dog leashes, gift wrap, shampoo, and outdoor recreation products, that Americans use each day and should, therefore, at least include an exclusions process as Round 1 and Round 2 did.

Therefore, please provide answers to the following questions:

- Does the Administration intend to offer an exclusions application process?
- If so, how will that process be implemented?
- If not, what is the rationale for providing no exclusions process in Round 3 of the 301 tariffs when Rounds 1 and 2 included one?

Given our concern on the impacts of this decision on American consumers and businesses, we ask you to reconsider this decision. Thank you for your prompt attention to this matter.

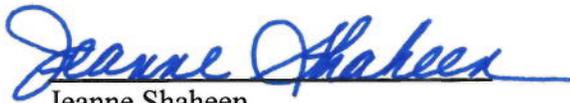
Sincerely,



Tim Kaine



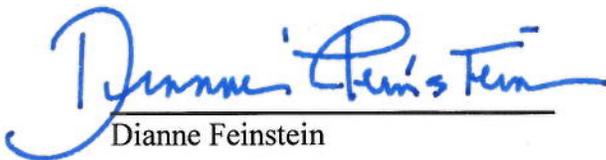
Thomas R. Carper



Jeanne Shaheen



Mark R. Warner



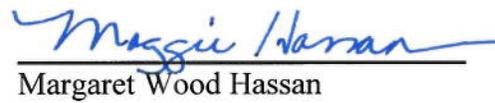
Dianne Feinstein



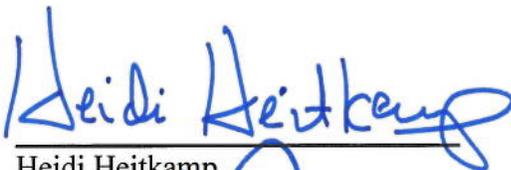
Christopher A. Coons



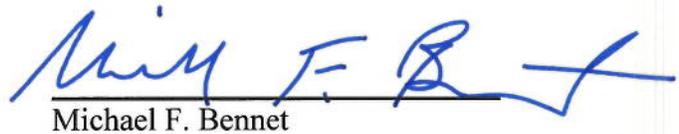
Patty Murray



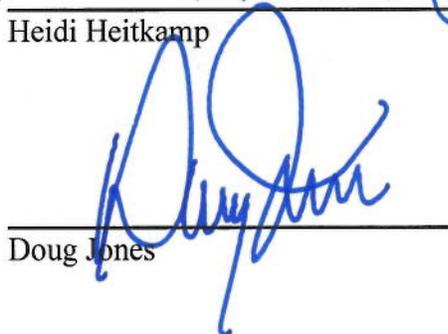
Margaret Wood Hassan



Heidi Heitkamp



Michael F. Bennet



Doug Jones