AMERICANS for TAX REFORM

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Office of the United States Trade Representative
600 17th Street NW
Washington, D.C. 20508

Re: Docket Number: USTR-2018-0018

About Americans for Tax Reform

Americans for Tax Reform (ATR) opposes all tax increases as a matter of principle. We believe in a system in which taxes are simpler, flatter, more visible, and lower than they are today. The government's power to control one's life derives from its power to tax. We believe that power should be minimized. ATR was founded in 1985 by Grover Norquist at the request of President Ronald Reagan.

The flagship project of Americans for Tax Reform is the Taxpayer Protection Pledge, a written promise by legislators and candidates for office that commits them to oppose any effort to increase income taxes on individuals and businesses. Today the Taxpayer Protection Pledge is offered to every candidate for state and federal office and to all incumbents. Nearly 1,400 elected officials, from state representative to governor to US Senator, have signed the Pledge.

Members of the Committee,

On behalf of Americans for Tax Reform, I am pleased to submit formal testimony regarding possible actions pursuant to Section 301 of the Trade Act of 1974. The goal of this and other similar hearings is to address specific Chinese economic practices, and it is our hope that the intended outcome of the USTR and this Committee long term is a reduction in overall trade barriers, not an escalation of permanent tariffs on imported goods.

Tariffs are taxes on American consumers. They are trade barriers that stand between international supply and domestic demand and in many cases, they weaken our economy and in turn our global competitiveness. Because tariffs are taxes, the ultimate result is often higher prices for American buyers. Take imported automobiles for example. **Roughly tripling the U.S. import taxes to the highest level in history, a move under consideration, would drive up the price of a car by more than $4,000 and a pickup truck by more than $5,000 on average.**

Because of the broad nature of the list of products being considered for additional duties by this administration, like aluminum and steel, there are also impacts on cars assembled right here in the U.S. These are costs that aren't eaten by the manufacturer; they're passed down to the consumer, eroding many of the benefits of this year's Tax Cuts and Jobs Act, which is delivering tax relief to more than 90% of Americans. **Tariffs that raises costs result in Americans having less money to spend and they further limit our trade capabilities.**

While arguments have been made suggesting that tariffs on products like imported automobiles or steel may help American companies and producers, that argument does not exist for all of the products under consideration by this Committee.

President Trump has explained that this administration would "take multiple steps to protect domestic technology and intellectual property from certain discriminatory and burdensome trade

practices in China." Part of these hearings and this effort is about examining "violations of the Agreement on Trade-Related Aspects of Intellectual Property Rights." **Not all of the products classified in the latest Harmonized Tariff Schedule (HTS) duty hikes, however, are consistent with the mission of this 301 Committee and that directive.**

In particular, I bring attention to HTS No. 854.370.99.30 and HTS No. 854.370.99.40, which cover electronic cigarettes and vapor products imported from China. Unlike other sectors, where competition, labor costs, and the existence of multiple major markets drives production and trade, the vapor market is unique. **With vapor products and electronic cigarettes, there exists a mutually beneficial balance between the growing needs of American consumers and the essential need for manufacturing abroad.**

Adding these products to the list of those subject to any tariff will not advance the goals of this 301 Committee or the administration for several reasons.

First, a reckless regulatory decision made by the Obama Administration permanently halted domestic innovation and new vapor product development. When the Food and Drug Administration "deemed" vapor products as tobacco in 2016, it essentially outlawed the introduction of all new products without agency pre-approval. Because this rule also requires that all products currently on the market undergo a lengthy, expensive, and potentially impossible regulatory approval process, there is little to no market for manufacturing most vapor devices in the United States. Uncertainty is too high, limiting the incentive for domestic investments for this industry. **Until the FDA outlines a more transparent, workable regulatory system for vapor products covered by HTS No. 854.370.99.30 and HTS No. 854.370.99.40 in the United States, China will remain an important trading partner for this sector, if only to satisfy rising consumer demands in the absence of U.S. investments.**

In 2016, the U.S. vapor product imports were about $342 million, with more than 90% coming from China according to the U.S. Government Accountability Office (GAO). While the robust manufacturing sector in China has raised questions that led to other 301 questions, it is this sector in China that is serving an unmet need in the United States.

These products were a genuine Chinese invention, with Chinese pharmacist Han Lik inventing the first-generation electronic cigarettes in the early 2000's in Beijing. **This was not a technology that found its way into Chinese manufacturing towns as a result of intellectual property theft or low labor costs; these products truly were created in China and then exported literally and figuratively to the United States.** While there has been a growth in U.S. domestic manufacturing of the liquids or "pods" used in many American vaping devices, the existence of two major markets – for devices and liquids - does not harm American interests.

From the FDA to internationally respected public health bodies and institutions, there is near-universal agreement that a smoker's transition from cigarettes to tobacco-free vapor products is a net positive for their health and for public health in general. That makes your decision on this tariff of consequence to American public health outcomes as well. Most estimates suggest that vapor products are at least 95% less harmful to a consumer than the traditional cigarette.

Thousands of new U.S. retailers depend on the affordability of devices, parts, and products covered by HTS No. 854.370.99.30 and HTS No. 854.370.99.40. **But beyond that, millions of American smokers who have used vapor products to quit smoking, rely on the affordability of these products for their own personal health.** U.S. data shows that smokers are overwhelmingly lower and middle-income, meaning that tariffs on these products are extremely regressive. The outcome of higher taxes on vapor products is not only a disincentive for smokers

to switch to lower-risk alternatives, but perhaps an incentive for price sensitive consumers to return to smoking. This is not the desired outcome of this Committee, this administration, or the public health community.

For these reasons, ATR strongly urges the Committee to remove HTS No. 854.370.99.30 and HTS No. 854.370.99.40 from consideration for tariff increases at this time.

Sincerely,

Paul Blair
Director of Strategic Initiatives
Americans for Tax Reform