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United States Senate

WASHINGTON, DC 20510

September 10, 2021

The Honorable Katherine Tai
U. S. Trade Representative
600 17th Street, NW
Washington, D.C. 20508

Dear Ambassador Tai:

We write to request as USTR undertakes a “top-to-bottom” review of our China trade policy that you incorporate supplemental rules of origin related to content from non-market economies, like China, in addition to strong rules of origin.

As you know, the Chinese Communist Party’s regional and global objectives create significant challenges for the United States and our allies. We must ensure our trade policies support domestic production and high standards supply chains with respect to labor and environment. We must also ensure trade policies do not further entrench our supply chains with those of the Chinese Communist Party (CCP) and other non-market economies.

Our Nation is paying the price for the lack of diversification in supply chains. However, as currently structured our trade agreements, on average, allow half of the content of FTA goods to come from outside the FTA region. That is, half the content of goods entering into the United States under a trade agreement could come from China. Those same goods could be deemed “American” through the FTA government procurement chapter. Rather than integrating our supply chains with democratic and like-minded countries, these trade rules may further enmesh our dependency on supply chains from foreign adversaries, and Nations which do not adhere to high standards on labor or environment. This must change.

To address these challenges, the United States must establish strong rules of origin, in addition, the U.S. must incorporate supplemental rules of origin to establish limits on FTA content that can originate in non-market economies. The Market Economy Sourcing Act, which we will soon reintroduce, proposes just that. Specifically, during the first five-year period following entry into force of a free trade agreement, no more than 20% of the “remainder” of content in qualifying goods may originate from non-market economies, and no more than 10% thereafter. That is, 80% of the “remainder” (the allowable content from non-FTA party countries) must come from market economies. After 5 years, 90% of the remainder content in qualifying goods must come from market economies. With respect to critical supply chains and capacities, no content from non-market economies and foreign adversaries should be allowed following a phase-out period.

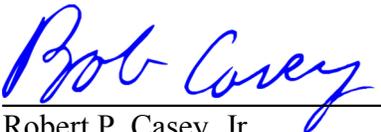
USTR has documented the numerous challenges U.S. firms face with respect to the CCP. This includes forced technology transfer, restrictions on intellectual property, subsidized industries

and factors of production, and “competition” with “national champions”. As you know, the CCP also engages in human rights abuses, curtails fair competition, supports repressive labor regimes, and lax environmental standards. We must ensure our trade rules do not provide countries which engage in these activities a back door into our market, as the current trade rules allow.

It is counter to our national and global economic interests to allow countries that flout market principles to free-ride on trade agreements or to benefit from U.S. procurement dollars. Accordingly, USTR should take action to limit further dependency on production and content from foreign adversaries and non-market economies (NMEs), like China. We believe USTR, on its own authority, can take action which will address the fundamental issue of the CCP free-riding on trade agreements and preference programs. We request you incorporate strong rules of origin and supplemental rules of origin related to content from non-market economies, like China in any future trade agreement and you review existing rules of origin to determine whether additional action is warranted.

Thank you for your attention to this matter and for the work you are undertaking to support our shared goal of achieving a truly worker-centered trade policy.

Sincerely,



Robert P. Casey, Jr.
United States Senator



Sherrod Brown
United States Senator



Elizabeth Warren
United States Senator

Cc: Celeste Drake, Made in America Director, OMB