January 17, 2023

The Honorable Katherine Tai
United States Trade Representative
600 17th Street Northwest
Washington, D.C. 20508

Re: FDRA's Comments to USTR in the 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

Dear Ambassador Tai:

The Footwear Distributors & Retailers of America (FDRA) provides comments to the Office of the United States Trade Representative (USTR) as it examines the effectiveness and impact of the 301 tariffs, including the impact on U.S. consumers.

FDRA is the footwear industry's trade and business association, representing more than 500 footwear companies and brands across the U.S. This includes the majority of U.S. footwear manufacturers and over 95 percent of the industry. FDRA has served the footwear industry for almost 80 years, and our members include a broad and diverse cross section of the companies that make and sell shoes, from small family-owned businesses to global brands that reach consumers around the world.

In our comments, FDRA will examine why the tariffs are unavoidable for U.S. footwear companies, harmful to U.S. consumers and businesses, and ineffective in achieving the goals of the 301 investigation.

U.S. footwear companies could not mitigate the harm from the 301 tariffs

The added 301 tariffs of List 4A, imposed by the Trump Administration and continued by the Biden Administration, place a tremendous burden on U.S. footwear companies and their consumers. Companies could not avoid the tariffs – and sourcing was essentially stuck in China – because only a handful of sourcing countries have the capabilities to produce footwear on a large scale. The U.S. market receives 2.75 billion pairs of shoes each year, or 8.4 pairs for every man, woman, and child in America.

Even moderate or smaller-scale footwear production requires large machinery, substantial capital investment, robust infrastructure, and a large workforce dedicated to learning the intricate skill of shoemaking. Footwear is labor intensive. It takes more than *100 touches* to make a basic pair of leather dress shoes, for example. Setting up a new factory also involves years of planning and relationship building. This includes brands devoting significant time and resources to ensuring that factories have the strongest labor, environmental, chemical safety, and product safety standards possible.

As a medium-sized footwear importer and FDRA member described, “The complexity of manufacturing footwear products makes it difficult to quickly shift production and maintain the level of quality and standards for our brand. The manufacturing skill and technology expertise is limited in other countries.”

In addition, the regional suppliers needed to make footwear are often located in Asia. Shifting footwear production back to the U.S. would require more than a huge surge of capital investment to build factories and the ability to hire and train thousands of workers in the intricacies of shoemaking – all while keeping costs down to deliver shoes to consumers at competitive prices. There are upwards of *70 materials* in a typical bill of materials for a shoe. Companies would need to find regional factories that can supply the eyelets, the cotton laces, the glue for the vulcanizing cement process, the rubber for the sole, the textile for the upper, and scores of other materials. Countless new factories and suppliers for *materials* would also need to shift back to the U.S.

For the reasons highlighted above, footwear companies have been forced to remain in China despite the added tariffs. In fact, U.S. small businesses are often the most reliant on China, because the scale of Chinese footwear production allows entry for all types of footwear at all price points. Many small and family-owned U.S. footwear businesses source 100 percent of their imports from China.

When large footwear brands managed to shift some sourcing to Vietnam to try to avoid the 301 tariffs, the COVID-19 pandemic sent them back to China as Vietnam shuttered its factories and imposed stringent lockdowns. As a result, the difficult choice for most footwear companies has been whether to absorb the 301 tariff costs or pass them on to consumers.

<u>The tariffs directly harm U.S. footwear companies and consumers</u>

The added tariffs hit our industry particularly hard, because even before 301 tariffs took effect, shoe tariff rates were incredibly high. Footwear tariff rates average over 12 percent – compared to 1.9 percent for other imported consumer goods – with rates reaching an astounding 37.5 percent, 48 percent, and 67 percent (37.5 percent + 90¢/pair). High footwear tariff rates were put in place in the 1930s to protect domestic manufacturing but have remained in effect despite 99 percent of all footwear production occurring outside the U.S. for decades now. U.S. companies, not China, pay the 301 tariffs, which operate as hidden taxes. These taxes are either absorbed by U.S. companies – significantly limiting the ability of U.S. footwear businesses to grow, hire new workers, and innovate – or they are passed directly to consumers. ***Either way, Americans pay these taxes.*** American individuals and families must therefore pay an unnecessary hidden tax on a product they have to buy as a necessity.

FDRA members have witnessed the following impacts from the 301 tariffs on footwear:

The tariffs resulted in either footwear companies or their consumers absorbing a massive cost increase.

One medium-sized footwear importer told FDRA it has seen cost increases of 20 percent since the tariffs took effect. Another member company indicated it paid, on average, an additional $1.3 million per year in 301 tariffs alone, not counting the other footwear tariffs it already pays. Another company that sells moderate priced footwear at national retail chains said the tariffs are "causing us to raise the price of our shoes which hurts an already inflation stressed consumer." Other FDRA member companies described ways the added tariff costs harmed their companies and/or consumers:

- "Through our company's success and profits, we are able to focus charitable giving at the local level by investing a significant percentage of our net profits in projects that build equity, fund access to mental health, and support our communities. The Section 301 tranche 4A punitive duties have had a material adverse impact on our profitability and therefore have significantly impacted our charitable contributions at a time when they are needed most."

- "The Section 301 tariffs increase our costs and therefore the price of shoes that our customers must pay. For many of our customers that additional cost makes a real difference in their family budgets. Especially now while parents are struggling to recover from the economic effects of the pandemic and face inflation, being able to reduce the costs of necessary footwear for a family has a real impact."

We are now seeing the sharpest gains in footwear prices in 41 years.

Trends in *duties per pair* are strongly correlated with average *landed costs* of footwear imports. Since implementation of 301 tariffs against China, average duties per pair on footwear imported from China are on track to rise 36.7 percent (compared to only 9.5 percent from the rest of the world). As average duties per pair from China jumped 18.9 percent year-over-year in November 2022, the eighth straight double-digit advance, the average landed cost of footwear from China jumped 10.1 percent year-over-year, also the eight straight double-digit advance. This cost surge has come despite the yuan falling late in 2022 to a fourteen-year low.

In addition, tariffs are embedded into the first cost of a shoe, and the tariff impacts the price of the shoe each time it is marked up, both at wholesale and subsequently at retail. Trends in average landed costs of footwear imports are therefore strongly correlated with *retail footwear prices.* With average landed costs of footwear imports on track to rise 17.0 percent in 2022, Retail footwear prices in 2022 rose 4.6 percent from 2021, the sharpest annual ascent since 1981. As inflation drives prices even higher, big-box retailers and national chains are having to pass along these added costs to their consumers.

This tariff burden falls disproportionately on working-class families.

Chapter 64 of the Harmonized Tariff Code (HTS), the footwear chapter, operates as a regressive tax since the highest rates often apply to lower priced shoes, many of which are children's shoes. As a result, working class individuals and families bear the greatest burden of the tariff cost. A men's leather dress loafer is taxed at a rate of 8 percent (without added 301 tariffs) while a typical athletic-looking, textile upper children's shoe will have a rate of at least 20 percent (without added 301 tariffs) and could face a tariff of 48 percent. There are numerous examples where an element of the tariff is the first cost and lower-priced shoes have the highest tariff rates.[1] This is a particular issue for children's shoes which typically have a lower price.

In addition, lower income families spend more of their disposable income on footwear, apparel, and other consumer goods.[2] The latest annual survey from the Bureau of Labor Statistics entitled "Consumer Expenditures in 2021" found minority households and those without college educations spend a greater expenditure of their income on shoes, apparel, and other consumer goods.[3] A recent study sponsored in part by FDRA further highlights the negative impact of the tariffs on low-income families.[4]

The tariffs hit companies that specialize in certain types of shoes particularly hard.

For those few children's shoes with relatively lower rates, the 301 tariffs meant drastic rate increases. With the added 301 tariffs, the tariff rate doubled for certain children's casual shoes and slippers. The rate more than tripled for certain plastic sandals, wool slippers, and infant crib shoes. Families must buy multiple pairs of shoes a year for each child as the children's feet grow throughout the year. The burden of the 301 tariffs falls disproportionately on these families.

The impact is also severe for companies that produce leather upper footwear, since the Trump Administration placed tariffs on nearly every subheading in 6403 of the HTS, which covers leather uppers. Footwear companies that produce leather footwear have seen huge sales declines in recent years, due to athleisure trends and less formal work attire following the pandemic. A small business selling men's dress shoes now faces the added pressure of a tariff rate that is nearly doubled with the 301 tariffs in place, going from 8.5 percent to 16 percent.

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[1] Footwear classified in subheading 6402.91 provides an example. Footwear valued over $12/pair is taxed at **20 percent** (6402.91.90), if valued over $6.50 but not over $12/pair, the rate is **90 cents a pair + 20%** (6402.91.80), that valued over $3 but not over $6.50/pair is taxed at **90 cents a pair + 37.5%** (6402.91.70), and that valued less than $3 are taxed at **48%** (6402.91.60). All but 6402.91.70 are on List 4A and have an additional 7.5% tariff if sourced from China.

[2] See *Trade Policy, Equity, and the Working Poor*, by Ed Gresser, Progressive Policy Institute (April 19, 2022)**,** https://www.progressivepolicy.org/publication/trade-policy-equity-and-the-working-poor/

[3] See *BLS Consumer Expenditures Report* (January 2023), https://www.bls.gov/opub/reports/consumer-expenditures/2021/home.htm

[4] See *Impacts of Section 301 Tariffs on Imports from China: Case Studies of Apparel, Footwear, Travel Goods and Furniture*, Trade Partnership Worldwide, LLC (January 2023), https://tradepartnership.com/wp-content/uploads/2023/01/China-301-Tariff-Costs-Joint-Association-Study-FINAL.pdf

The tariffs harm U.S. footwear manufacturers because these manufacturers are also importers.

The less than 1 percent of footwear production that occurs in the U.S. is done almost exclusively by U.S. importers. These companies may produce a line of specialized high-end leather boots in the U.S. while also importing children's shoes that reflect a much larger percentage of their business. In addition, many U.S. footwear manufacturers source components from China to use in domestic footwear production. In fact, there are currently 301 tariffs on almost every footwear part and component found in 6406 of the HTS. The 301 tariffs directly impact these U.S. manufacturers and limit their ability to hire U.S. workers, invest in new equipment, and design new products.

One U.S. footwear manufacturer and FDRA member described the 301 tariff impact on U.S. manufacturing:

- "As both a domestic manufacturer and wholesale importer of footwear products we are in a unique position that enables us to recognize the benefits and challenges of both sourcing strategies. The 301 tariffs have had no impact on our decision to further re-shore or increase our domestic production capacity. With the US labor market constrained, we are having extreme difficulty just maintaining historical production levels despite wage increases approaching 40 percent over the last 3 years, we do not see these labor market conditions as "transitory"; labor supply has been on a steady decline for the last 10 years. In addition, the pandemic has had a permanent effect on domestic raw material and component suppliers, many of which have closed or reduced capacity, this has further hindered growth of our domestic manufacturing capacity and increased our overall production costs. In addition, the inability to fully pass on the cost of high tariffs (including those initiated by section 301 actions) to customers/consumers has reduced operating margins and cash flow and slowed much needed investment in domestic based projects: Expanding retail/warehousing/distribution capacity, cyber security/business resiliency safeguards and environmental reengineering efforts."

The tariff rollout resulted in new administrative costs for companies.

When President Trump imposed the tariffs, companies had to devote significant resources to try to mitigate the economic harm, explore the limited footwear sourcing options in a short timeframe, navigate a complex exclusion process that lacked transparency, and file exclusion requests (all of which were denied without explanation by the Trump Administration). All of this occurred in an atmosphere of tremendous uncertainty in the rollout of the tariffs, which led to confusion and additional costs for companies.

<u>The footwear tariffs have not achieved the goal of the 301 investigation</u>

The decision to add tariffs on footwear did not and will not eliminate Chinese acts, policies, and practices related to intellectual property, technology transfer, and innovation – the reason the Trump Administration launched the 301 investigation. Footwear tariffs are incapable of changing Chinese behavior for three reasons. First, U.S. companies and consumers, not the Chinese government, pay the tariffs. Making U.S. consumers pay more for shoes will not impact Chinese behavior.

Second, if the goal of the tariffs is to incentivize U.S. companies to leave China – by hitting U.S. businesses and consumers with new costs – this simply does not work with footwear for the reasons highlighted above. Due to limited sourcing options, footwear production cannot shift out of China. As Vietnam shuttered factories and imposed stringent lockdowns due to the COVID-19 pandemic, companies that left China for Vietnam were forced to shift production back to China.

Third, tariffs on sectors not prioritized by China are unlikely to influence Chinese behavior. Footwear is a comparatively low-value sector. It was not one of the high-tech sectors outlined as an area of focus in China's Made in China 2025 Strategy, which preceded the 301 investigation. The initial actions in the 301 investigation – List 1 and List 2 – seem to recognize this, since those actions largely targeted those sectors identified by the Made in China 2025 Strategy. Our industry has learned firsthand China's desire to move towards higher valued manufacturing as footwear factories have seen higher costs, worker turnover, and prevalent labor shortages over the past decade. These economic indicators are proof positive that the Chinese government does not consider footwear production as a key tenet of its industrial policy and that the only effect of the 301 tariffs is harm to footwear firms and consumers.

Conclusion

For these reasons, FDRA urges the Administration to remove the 301 tariff lines for footwear and take a more targeted approach when it comes to China tariff policy. Thank you again for the opportunity to provide input on the impact and effectiveness of the current 301 tariffs on footwear.

Sincerely,

Matt Priest
President & CEO
Footwear Distributors and Retailers of America