

July 10, 2023

Lisa W. Wang
Assistant Secretary for Enforcement and Compliance
Room 18022
U.S. Department of Commerce
1401 Constitution Ave., NW
Washington, DC 20230

Re: Consumer Technology Association Comment to Docket 230424-0112, Regulations Improving and Strengthening the Enforcement of Trade Remedies Through the Administration of Antidumping and Countervailing Duty Laws

Dear Assistant Secretary Wang:

The Consumer Technology Association (“CTA”) respectfully submits these comments to the U.S. Department of Commerce (“Commerce”) in response to its request for comments on the proposed regulations for improving and strengthening the enforcement of trade remedies through the administration of antidumping and countervailing duty laws.¹

CTA represents the more than \$505 billion U.S. consumer technology industry, which supports more than 18 million U.S. jobs. Our members are comprised of over 1200 companies from every facet of the consumer technology industry, including manufacturers, distributors, developers, retailers, and integrators, with 80 percent of CTA members being start-ups or small and mid-sized companies. CTA also owns and produces CES®—the most influential technology event in the world—which showcases and serves as a forum for discussion of international policies concerning existing and new technologies, international technology trade and investment, and global opportunities and challenges facing the consumer technology industry.

CTA and its members support strengthening American supply chains to promote the growth of well-paying U.S. jobs and the U.S. economy and to protect U.S. national security. CTA and its members are also committed to ensuring that American businesses, households, and workers have access to the consumer electronics products that are increasingly essential for employment, learning, and productivity, particularly in the wake of the pandemic. As part of this effort, consumer technology

¹ *Regulations Improving And Strengthening the Enforcement of Trade Remedies Through the Administration of the Antidumping and Countervailing Duty Laws: Proposed Rule; Request for Comments*, 88 Fed. Reg. 29,850 (May 9, 2023).

firms are reinforcing initiatives to enhance resilience and diversification in key supply chains. For many firms, this includes seeking out alternative sources of supply in U.S. security allies and trading partners like the European Union, Japan, the Republic of Korea, Malaysia, Mexico, Philippines, Taiwan, Thailand, and Vietnam. These efforts are in line with the Biden Administration’s goals to develop resilient, inclusive, and sustainable supply chains. Indeed, the Biden Administration has acknowledged that the United States cannot satisfy the growing demand for critical goods, like the consumer technology products developed and sold by CTA members, without relying on allies and trading partners.²

CTA is concerned that Commerce’s proposed regulations will work against these objectives: instead of helping reducing source dependencies, the regulations could discourage relocation of supply chains; and instead of combatting inflation to improve the U.S. economy, these regulations could increase consumer prices. Further, Commerce’s proposed regulations would require Commerce’s International Trade Administration (“ITA”) to conduct evaluations where it lacks the experience, the benchmarks, and tools to address these issues. Finally, Commerce already has the tools it needs in its trade enforcement toolbox. For these reasons, CTA encourages Commerce to take these comments into account when finalizing its regulations.

1. Commerce’s proposed regulations could discourage supply chain diversification

CTA and its members are concerned that Commerce’s proposed regulations will work against the Biden Administration’s trade policy by penalizing companies that seek to diversify supply chains into countries that are strong trading and diplomatic partners with the United States. Indeed, Commerce’s proposed regulations reflect a misimpression that these supply chain shifts—which were encouraged by the past and current Administrations—are attempts to circumvent U.S. antidumping and countervailing duties (particularly on Chinese products) instead of actions taken in cooperation with the Biden Administration’s goal to de-risk U.S. technology supply chains.

In this regard, Commerce’s proposed regulations could restrict trade with U.S. trading partners by making it easier to target these partners’ imports with trade measures. The proposed regulations are part of an increasing (and worrying) pattern of restrictive trade measures targeting companies seeking to diversify supply chains, including the proposed Leveling the Playing Field 2.0 Act submitted in the 117th Congress, which works directly counter to the Biden Administration’s efforts to “friend-shore” supply chains by lowering the due process threshold against products coming from all countries and all companies, not just those importing from China or those subject to previous trade remedy measures. Further, these efforts are wholly contrary to creative initiatives by the Biden Administration to strengthen trading relationships with friendly trading and supply chain partners, like the Indo-Pacific Economic Framework for Prosperity (“IPEF”), which relies on increased partnerships with trading allies to deepen U.S. economic engagement in the region, fortify supply chains, and tackle inflation.³

² See, e.g., Fact Sheet: Biden-Harris Administration Announces Supply Chain Disruptions Task Force to Address Short-Term Supply Chain Discontinuities, WhiteHouse.gov (June 8, 2021).

³ See Fact Sheet: In Asia, President Biden and a Dozen Indo-Pacific Partners Launch the Indo-Pacific Economic Framework for Prosperity, WhiteHous.gov (May 23, 2022).

2. Commerce's proposed regulations could increase prices at a time of inflation

Moreover, the Biden Administration has made combatting inflation a key pillar of its agenda, including by lowering costs for Americans. CTA and its members have experienced the burdens of inflation firsthand, as consumer technology is a highly price-sensitive industry. Consumer technology products, like those made by CTA members, have become necessary for Americans to engage in the digital economy, participate in society, access healthcare, undertake household responsibilities through connected appliances, and even receive an education. Duties make these products less accessible. CTA has provided numerous comments to both the Biden and Trump Administrations regarding the deleterious effects of increased duties on technology products.⁴

Through these letters, CTA has consistently urged the Biden Administration to avoid trade policies that harm U.S. consumers, burden U.S. innovation and technological development, and undermine American companies' competitiveness against foreign companies. Moreover, CTA has repeatedly emphasized the deleterious effects of increased duties on consumer technology products, which make these products less available and affordable for American consumers, while also placing inflationary pressure on consumer technology products that have become essential tools in the daily lives of American families. Increasing duties or imposing additional tariffs on consumer technology products also stunt U.S. innovation in the technology sector by reducing the availability of products and raising the cost of investment in American businesses and workers. CTA is concerned that Commerce's new regulations thereby risk a chilling impact on economic development by discouraging supply chain shifts and other positive economic behavior where unfair trade practices do not exist, given that the regulations reduce barriers for ITA to impose tariffs on these critical products.

3. Commerce's proposed regulations would require ITA to engage in evaluations it is not equipped to undertake

Finally, CTA has particular concerns with provisions of Commerce's proposed regulations that would allow Commerce to evaluate factors such as the enforcement of laws governing human rights, labor, environmental protections, and intellectual property in the context of determining whether a "particular market situation" exists in antidumping proceedings, and in considering whether a foreign country conferred countervailable subsidies in the context of countervailing duty proceedings. However, ITA does not have the authority or expertise to assess the efficacy of laws governing these topics, or even to establish a measurable standard against which to assess them in the first place. CTA strongly cautions against enacting regulations that allow Commerce to make decisions based on factors that it has neither the mandate nor expertise to assess.

Indeed, CTA observes that its members, through collaboration with suppliers located in strategic U.S. partners outside of China, are actively raising the standards for intellectual property, labor, and

⁴ See, e.g., Consumer Technology Association Comment to Docket USTR-2022-0014, *Request for Comments in Four-Year Review of Actions Taken in the Section 301 Investigation* (Jan. 17, 2023); Consumer Technology Association Comment to Docket ITA-2022-0010, *Draft Harmonized System Code List of Critical Supply Chains* (Jan. 17, 2023); Letter from Gary Shapiro, President & CEO, CTA, to the Honorable Ambassador Katherine C. Tai (March 29, 2022).

environmental protections, which is in line with the Biden Administration's comprehensive trade policy to strengthen supply chains. It is imperative for the United States to continue to incentivize this upward trajectory, not to set inflexible U.S.-based standards that can counter-productively spur such trading partners to redirect their supply chains elsewhere.

CTA is concerned that the treatment of subsidies in the proposed regulations could stymie these efforts, contravening the Biden Administration's objectives.

For the reasons set forth above, CTA urges Commerce to reconsider aspects of its proposed regulations that inhibit fair trade with U.S. trading partners and penalize companies for seeking to diversify supply chains, thereby undermining the Biden Administration's goals of building resilient global supply chains.

Sincerely,



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Ed Brzytwa
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