Can Manufacturers Institute

March 18, 2024

BY ELECTRONIC MAIL AND COURIER

The Honorable Katherine C. Tai
U.S. Trade Representative
Office of the U.S. Trade Representative
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Washington, D.C., 20508
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Mr. Juan A. Millan
Acting General Counsel
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Re: Increasing Section 301 Duties on Metal Can Imports from China

Dear Ambassador Tai and Acting General Counsel Millan:

On behalf of the Can Manufacturers Institute ("CMI"), I am writing in support of comments your office received as part of the Four-Year Review of Actions Taken in the Section 301 Investigation (Docket No. USTR-2022-0014) regarding maintenance and modification of Section 301 tariffs imposed on imports from China. CMI wishes to lend its support to comments submitted by a number of organizations — including U.S. Steel Corporation, Cleveland-Cliffs Inc., the American Iron and Steel Institute ("AISI"), the Aluminum Association, and the Aluminum Extrusions Fair Trade Committee — calling for the maintenance and strengthening of existing Section 301 tariffs on certain steel and aluminum products from China.

While the Four-Year Review is reportedly close to completion, CMI would also like to make an additional and extremely urgent request based on very recent developments in the U.S. market: aluminum and steel cans and ends as well as filled food cans made in China are threatening to irreparably disrupt the U.S. metal can manufacturing and food production industries. In particular, CMI urges the Office of the U.S. Trade Representative ("USTR") not only to maintain but to **increase existing Section 301 tariffs on imports from China of (i) steel and aluminum cans; (ii) steel and aluminum ends for food and beverage cans; and (iii) filled food cans**. The specific HTS headings of concern to CMI are set forth in **Annex 1** to this letter. Unless tariffs on empty cans and ends and filled food cans from China are increased, our industry will not be able to compete with imports of finished can products made using massively subsidized Chinese steel and aluminum inputs.

As the national trade association of the metal can manufacturing industry and its suppliers in the United States, CMI represents companies that produce general packaging and specialty cans used in the food, beverage, and aerosol sectors, among others. Our members produce approximately 90 percent of the steel cans made in the United States. These products are integral to ensuring safe, quality, and affordable food packaging for U.S. consumers, as well as cost-effective packaging for a variety of non-food products in the U.S. market. In the United States, the can industry accounts for domestic production of approximately 131.6 billion food, beverage, aerosol and general line cans annually, generating approximately $15.7 billion in direct economic activity. The industry employs more than 28,000 people with plants in 33 states, Puerto Rico, and American Samoa.

CMI agrees with U.S. Steel, AISI, and the Aluminum Association that Section 301 tariffs provide relief to domestic industries that have been negatively impacted by China's discriminatory and unreasonable trade policies. Non-market behavior by the Chinese government — including massive domestic subsidy programs to China's steel industry — has resulted in global steel overcapacity, including for downstream steel products such as steel cans, both empty and filled. Despite the imposition of Section

301 tariffs, these challenges have persisted and continue to threaten severe disruptions in the U.S. market for can manufacturers and their customers. China's unfair trade policies are not limited to upstream steel products. Its non-market policies also place finished steel and aluminum products exported by Chinese firms in an unfairly strong competitive position, with pricing in export markets below even the basic cost of domestic production for many U.S. firms. Given those substantial advantages, China is by far the largest exporter of steel-intensive finished goods, and the resulting flood of downstream metal products from China erodes the customer base for domestic industries, including U.S. can manufacturers.

The effect of China's non-market policies on downstream steel products was recently highlighted by the Department of Commerce in its January 2024 final determination finding that China heavily subsidizes tin mill steel products, which are used to make steel cans and ends. Commerce also found that Chinese producers dump tin mill steel into the U.S. market. The existence of massive state subsidies on products such as tin mill steel confirms that USTR must carefully consider the effect of China's unfair trade practices not only with respect to steel products, but also with respect to downstream products made in China using subsidized steel and aluminum, including empty cans and ends. While Section 301 tariffs have provided some pressure against Chinese subsidies, USTR can and should strengthen the Section 301 action to address the downstream effects of China's industrial policies, and to prevent further harm from that government's ongoing market-distorting practices.

These trends go beyond increased imports of metal cans and ends from China. There has also been a spike in U.S. imports of Chinese canned foods, which have penetrated not only retail store shelves across the country but also U.S. government subsidized school lunch programs, military commissaries, and prisons. The flood of Chinese canned food products erodes the customer base for U.S. agricultural producers, harms the thousands of farmers who grow America's food, and threatens the livelihoods of critical food processing and can making workers, many of whom are unionized. This trend also has implications for the broader food security interests of the United States. In fact, according to the U.S. Department of Agriculture ("USDA"), the United States is now a net food importer, with food imports recently increasing to record highs.[1] This increased reliance on canned foods from China is occurring at the expense of U.S. farmers and food companies. It also threatens our ability to establish self-sufficient and reliable supply chains and to promote economic and environmental sustainability. Unfortunately, even U.S. government programs are currently operating to strengthen China's steel, aluminum, and food industries. For example, the USDA Supplemental Nutrition Assistance Program allows cash-strapped consumers to purchase canned foods from China.

Accordingly, we agree with previously submitted comments asking USTR to maintain the Section 301 tariffs on metal products, including steel and aluminum products. However, as USTR's four-year review comes to a close, we also believe that the Section 301 tariffs on the finished products listed in **Annex 1** to this letter should be raised to prevent further harm from China's market-distorting practices. Specifically, we encourage USTR to modify the Section 301 tariffs not only to ensure that tariffs on all steel and aluminum cans, all steel and aluminum ends for food and beverage cans, and all filled food cans are set at a minimum to the highest level of Section 301 tariffs (currently 25 percent),[2] but also to impose even higher tariffs to help offset the absurd cost advantages enjoyed by can manufacturers in China. Without

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[1] USDA, *USDA Agricultural Projections to 2013* (February 2022), p. 51; T*he Outlook for U.S. Agriculture – 2023 U.S. Agriculture: Seeds of Growth Through Innovation*, UDSA's 99th Agricultural Outlook Forum (February 23-24, 2023).

[2] This would require increasing Section 301 tariffs on empty household steel and iron can products (HTS heading 7323.99.5060) currently subject to suspended tariffs under List 4B, as well as on filled can products (HTS headings 1601.00.2010, 1601.00.6060, 1602.90.9160, 2005.70.5030, and 2005.70.5060) currently subject to a tariff rate of 7.5 percent under List 4A.

meaningful relief, imports of finished can products from China will displace domestically produced cans and reduce domestic demand for downstream metal products manufactured in the United States. To avoid such an outcome, and for the reasons set forth below, USTR should increase Section 301 duties on imports of both empty cans and components as well as filled can products from China as swiftly as possible.

Empty Cans and Ends

The United States imports empty steel and aluminum cans and components (such as can ends) under HTS headings 7310.21.0050, 7310.29.0065, 7323.99.5060, 7612.90.1030, 7612.90.1060, and 8309.90.0000. The majority of these tariff lines are subject to List 3 Section 301 tariffs, which became effective on May 10, 2019.[3] Increases in the current tariffs are necessary because U.S. imports from China of most of these products have increased — in some instances, substantially — since the imposition of the Section 301 tariffs, as shown in **Figure 1**.

FIGURE 1:
Comparison of Three-Year Average Import Volumes for Can Products from China (2017 to 2022)

HTS Heading	Description	Section 301 List	Applicable Tariff	Annual Import Average (2017-19)	Annual Import Average (2020-22)	Percentage Change
7310.21.0050	Cans to be closed by soldering/crimping	3	25%	90,429,093	185,143,059	105%
7310.29.0050 and 7310.29.0065	Cans to be closed by some other method besides soldering / crimping	3	25%	162,845,188	160,494,360	-1%
7323.99.5060	Household articles of iron or steel that are of tinplate (not coated with precious metal and not kitchen or tableware suitable for food or drink contact)	4B	Suspended	0	67,716,216	N/A
7612.90.1030	Aluminum cans of a capacity not exceeding 355 ml	3	25%	9,063,466	909,909,815	9,939%
7612.90.1060	Aluminum cans of a capacity exceeding 355 ml but less than 3.8 liters	3	25%	1,185,660	98,351,551	8,195%
8309.90.0000	Can ends, whether steel or aluminum	3	25%	14,644,517	22,234,803	52%

[3] The exception is HTS heading 7323.99.5060 for can ends, whether steel or aluminum, which is subject to suspended List 4B tariffs.

Figure 1 compares average import volumes across the three-year periods prior to (2017-2019) and following (2020-2022) imposition of the List 3 tariffs. This comparison confirms that import volumes have increased for nearly all product categories of immediate concern to CMI. For instance, imports of aluminum cans (HTS headings 7612.90.1030 and 7612.90.1060) have increased between 8,195 and 9,939 percent across the relevant periods. Increases in imports of other can products have been more modest, but still significant. For example, imports of steel cans closed by soldering/crimping (7310.21.0050) have increased 105 percent, while imports of aluminum and steel can ends (8309.90.0000) have increased 52 percent. This surge in imports has weakened the customer base for U.S. producers of finished can products, which in turn diminishes domestic demand for tin mill steel and aluminum produced in the United States.

Filled Food Cans

The United States imports filled food cans under HTS headings 1601.00.2010, 1601.00.6060, 1602.90.9160, 1604.11.4020, 1604.11.4030, 1604.11.4040, 1604.11.4050, 1604.13.1000, 1604.14.2299, 1604.16.2000, 1605.10.2010, 1601.10.2022, 1605.10.2025, 1605.10.2030, 1605.10.2051, 1605.10.2059, 1605.10.2090, 2001.90.6000, 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, 2003.10.0153, 2005.80.0000, 2005.51.2020, 2005.51.4020, 2005.70.5030, 2005.70.5060, 2005.70.6020, 2005.70.6030, 2005.70.6050, 2005.70.6060, 2005.70.6070, 2005.91.6000, 2005.99.1000, 2005.99.8500, 2005.99.9700, 2008.40.0020, 2008.70.2020, 2008.70.2040, 2008.97.9030, 2008.97.9035, 2008.97.9040, 2008.97.9050, and 2309.10.0010 among others.

Like imports of empty cans and components, imports from China of filled food cans have also increased in recent years, notwithstanding the imposition of Section 301 duties. Between 2019 and 2022, for instance, overall imports of Chinese canned fruit and vegetable imports increased by 43 percent[4] — including a growth rate for canned food imports from China of 19 percent just from 2021 to 2022.[5] China alone accounts for more than half (52 percent) of total U.S. imports of large and small cans of peaches.[6] U.S. imports of canned sweet corn from China have surged at a particularly alarming rate, increasing more than 17-fold from 2018 to 2022, including a volume increase of 182 percent from 2020 to 2022, as shown in **Figure 2** on the next page.

[4] Bush Brothers & Company Posthearing Br. at p. 2 (Jan. 11, 2024) submitted in *Tin Mill Products from Canada, China, Germany, Netherlands, South Korea, Taiwan, Turkey, and the United Kingdom*, Inv. Nos. 701-TA-685 and 731-TA-1599-1606 (Final).

[5] CMI's Prehearing Br. at Ex. 16, p. 6 (Dec. 20, 2023) submitted in *Tin Mill Products from Canada, China, Germany, Netherlands, South Korea, Taiwan, Turkey, and the United Kingdom*, Inv. Nos. 701-TA-685 and 731-TA-1599-1606 (Final).

[6] *Id.* at Ex. 16, p. 14.

FIGURE 2: U.S. Imports of Preserved Sweet Corn from China (HS 2005.80.0000)					
Imports	**2020**	**2022**	**Percent Increase**	**Section 301 List**	**Applicable Tariff**
Quantity in kilograms	5,739,252	16,170,584	182%	3	25%
Value in U.S. dollars	3,640,456	12,446,963	242%		

By taking action to curtail these sharply rising imports of filled food cans through the pending Section 301 Four-Year Review, USTR can help protect both the U.S. manufacturing base and U.S. food security.

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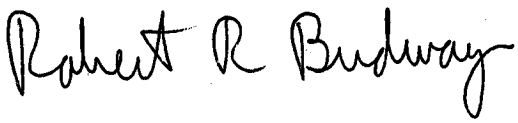
For all of these reasons, strengthened Section 301 measures are needed to combat the increasingly successful efforts of Chinese producers to export finished steel and aluminum cans, both empty and filled, and components for food and beverage cans directly to the United States. Without remedial action, U.S. can manufacturers and agricultural producers will suffer lost sales, and domestic demand for U.S.-made products will decline. CMI respectfully urges USTR to take these recent trends into account as it finalizes the results of its Four-Year Review of the Section 301 action.

Sincerely,



Robert R. Budway
Can Manufacturers Institute

Cc: Joelle Gamble, Ryan Majerus, Alex Jacquez—National Economic Council

Annex 1 — Specific Products of Concern to CMI

Empty Cans/Components			
HTS No.	**HTS Description**	**Section 301 List**	**Applicable Tariff**
7310.21.0050	Cans . . . Of iron or steel, of a capacity not exceeding 300 liters, whether or not lined or heat insulated, but not fitted with mechanical or thermal equipment: Of a capacity of less than 50 liters: Cans which are to be closed by soldering or crimping...other	3	25%
7310.29.0050 (deactivated in 2020) & 7310.29.0065	Cans . . . Of iron or steel, of a capacity not exceeding 300 liters, whether or not lined or heat insulated, but not fitted with mechanical or thermal equipment: Of a capacity of less than 50 liters: Other…Other…Other	3	25%
7323.99.5060	Other household articles and parts thereof, of iron or steel … other … not coated or plated with precious metal: of tin plate … other (not kitchen or tableware suitable for food or drink contact)	4B	0% (Suspended)
7612.90.10	Aluminum . . . Cans . . . For any material (other than compresses or liquified gas), of a capacity not exceeding 300 liters, whether or not lined or heat insulated, but not fitted with mechanical or thermal equipment: Other: Of a capacity not exceeding 20 liters...	3	25%
7612.90.1030	Cans of a capacity not exceeding 355 ml		
7612.90.1060	Cans of a capacity exceeding 355 ml but less than 3.8 liters		
8309.90.0000	Stoppers, caps and lids (including crown corks, screw caps and pouring stoppers), capsules for bottles, . . . seals and other packing accessories, and parts thereof, of base metal: other	3	25%

Filled Food Cans			
HTS No.	**HTS Description**	**Section 301 List**	**Applicable Tariff**
1601.00.2010	Sausages and similar products, of meat, meat offal, blood or insects; food preparations based on these products: Pork…Canned	4A	7.5%
1601.00.6060	Sausages and similar products, of meat, meat offal, blood or insects; food preparations based on these products: Other: Other: Other: Canned	4A	7.5%
1602.90.9160	Other prepared or preserved meat, meat offal, blood or insects: Other, including preparations of blood of any animal: Other: Canned	4A	7.5%
1604.11.40	Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs: Fish, whole or in pieces, but not minced: Salmon: Other:	3	25%
1604.11.4020	Canned: Pink (humpie)		
1604.11.4030	Canned: Sockeye		
1604.11.4040	Canned: Other		
1604.11.4050	Other		
1604.13.1000	Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs: Fish, whole or in pieces, but not minced: Sardines, sardinella and brisling or sprats: In oil, in airtight containers . . . Smoked sardines, neither skinned nor boned, valued $1 or more per kg in tin- plate containers, or $1.10 or more per kg in other containers	3	25%
1604.14.2299	Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs: Tunas, skipjack tuna and bonito (Sarda spp.): Tunas and skipjack: In airtight containers: Not in oil: In containers weighing with their contents not over 7 kg each, and not the product of any insular possession of the United States, for an aggregate quantity entered in any calendar year not to exceed 4.8 percent of apparent United States consumption of tuna in airtight containers during the immediately preceding year, as reported by the National Marine Fisheries Service . . . Other	3	25%

1604.16.2000	Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs: Anchovies: In oil, in airtight containers	3	25%
1605.10.20	Crustaceans, molluscs and other aquatic invertebrates, prepared or preserved: Crab: Other: Crabmeat: In airtight containers . . .	3	25%
1605.10.2010	King crab	3	25%
1605.10.2022	Snow crab (Chionoecetes bairdi, C. opilio, C. tanneri and C. angulatus): C. opilio (small)	3	25%
1605.10.2025	Snow crab (Chionoecetes bairdi, C. opilio, C. tanneri and C. angulatus): Other	3	25%
1605.10.2030	Dungeness	3	25%
1605.10.2051	Swimming crabs (Portunidae): Callinectes spp., including blue crabs (C. sapidus).	3	25%
1605.10.2059	Swimming crabs (Portunidae): Other	3	25%
1605.10.2090	Other	3	25%
2001.90.6000	Vegetables, fruit, nuts and other edible parts of plants, prepared or preserved by vinegar or acetic acid: Other: Other	3	25%
2003.10.01	Mushrooms and truffles, prepared or preserved otherwise than by vinegar or acetic acid: Mushrooms of the genus Agaricus	3	25%
2003.10.0127	In containers each holding not more than 255 g: Whole (including buttons)	3	25%
2003.10.0131	In containers each holding not more than 255 g: Sliced	3	25%
2003.10.0137	In containers each holding not more than 255 g: Other	3	25%
2003.10.0143	In containers each holding more than 255 g: Whole (including buttons)	3	25%
2003.10.0147	In containers each holding more than 255 g: Sliced	3	25%
2003.10.0153	In containers each holding more than 255 g: Other	3	25%

2005.80.0000	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading 2006: Sweet Corn (*Zea mays var. saccharata*)	3	25%
2005.51.2020	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading 2006: Beans (*Vigna spp., Phaseolus spp.*): Beans, shelled: Black-eye cowpeas…Canned dried	3	25%
2005.51.4020	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading 2006: Beans (*Vigna spp., Phaseolus spp.*): Beans, shelled: Other…Canned dried	3	25%
2005.70.50	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading 2006: Olives: In a saline solution: Not green in color: Canned: Not pitted:	4A	7.5%
2005.70.5030	In containers each holding more than 0.3 kg, drained weight		
2005.70.5060	In containers each holding 0.3 kg or less, drained weight		
2005.70.60	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading 2006: Olives: In a saline solution: Not green in color: Canned: Other…	3	25%
2005.70.6020	Whole pitted: In containers each holding more than 0.3 kg, drained weight.		
2005.70.6030	Whole pitted: In containers each holding 0.3 kg or less, drained weight.		
2005.70.6050	Sliced		
2005.70.6060	Chopped or minced		
2005.70.6070	Other, including wedged or broken		
2005.91.6000	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading 2006: Other vegetables and mixtures of vegetables: Bamboo Shoots: In airtight containers	3	25%

2005.99.1000	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading 2006: Other vegetables and mixtures of vegetables: Other: Carrots in airtight containers	3	25%
2005.99.8500	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading 2006: Other vegetables and mixtures of vegetables: Other: Chickpeas (garbanzos)	3	25%
2005.99.9700	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading 2006: Other vegetables and mixtures of vegetables: Other	3	25%
2008.40.0020	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included: Pears . . . In containers each holding less than 1.4 kg	3	25%
2008.70.20	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included: Peaches, including nectarines: Other peaches…	3	25%
2008.70.2020	In containers each holding less than 1.4 kg.		
2008.70.2040	Other		
2008.97.90	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included: Mixtures: Other… Packed in a liquid medium in airtight containers:	3	25%
2008.97.9030	Containing peaches or pears: In containers each holding less than 1.4 kg		
2008.97.9035	Containing peaches or pears: Other		
2008.97.9040	Other: Containing oranges or grapefruit		
2008.97.9050	Other: Other		

2309.10.0010	Preparations of a kind used in animal feeding: Dog or cat food, put up for retail sale . . . In airtight containers	3	25%