



ZERO EMISSION  
TRANSPORTATION  
ASSOCIATION

June 28, 2024

Office of the U.S. Trade Representative  
Executive Office of the President  
600 17th Street NW  
Washington, DC 20506

**RE: Docket No. USTR-2024-0007**  
**Request for Comments on Proposed Modifications and Machinery Exclusion**  
**Process in 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**

*Submitted via web portal at <https://comments.ustr.gov>.*

The Zero Emission Transportation Association (ZETA) is an industry-backed coalition of member companies advocating for 100% electric vehicle (EV) sales. ZETA is committed to enacting policies that drive EV adoption, create hundreds of thousands of domestic jobs, dramatically improve public health, and significantly reduce emissions. Our coalition spans the entire EV supply chain, including vehicle manufacturers, charging infrastructure manufacturers and network operators, battery manufacturers and recyclers, electricity providers, and critical minerals producers, among others.

We thank the Office of the U.S. Trade Representative (USTR) for the opportunity to respond to its proposed additions and modifications to duty rates for certain Chinese products under Section 301 of the Trade Act of 1974 (Section 301).<sup>1</sup> Electric vehicles are the future of transportation and recent years have seen record investment in the domestic EV supply chain.<sup>2</sup> ZETA supports policies that maximize EV adoption while balancing enhancements to U.S. economic security and competitiveness.<sup>3</sup> The following comments discuss ways we believe the Administration can realize this intent without negatively impacting companies that continue to invest domestically and create good-paying American jobs.

As the Administration implements the proposed additions and modifications to Section 301 duty rates for certain Chinese products, ZETA notes multiple legislative and regulatory actions in recent months and years seeking to incentivize the growth of a domestic supply chain for EVs and their constituent parts and materials. One of the most notable is the 30D New Clean Vehicle Tax Credit. Modified by the Inflation Reduction Act of 2022, the 30D credit is worth up

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<sup>1</sup> 89 Fed. Reg. 46252 (May 28, 2024)

<sup>2</sup> <https://www.zeta2030.org/education-fund/investments>

<sup>3</sup> <https://www.zeta2030.org/news/zeta-emphasizes-importance-of-supporting-the-domestic-ev-supply-chain-following-tariff-announcement>

to \$7,500 for new EVs but contains stringent statutory sourcing requirements for battery components and critical minerals that manufacturers must meet to maintain vehicle eligibility.<sup>4,5</sup> These requirements increase in stringency over the life of the credit, which expires in 2033.<sup>6</sup> The 30D credit also has strict requirements in place to prevent the eligible vehicles from incorporating battery components and critical minerals sourced from “foreign entities of concern,” (FEOCs) including the People’s Republic of China.<sup>7</sup> Vehicle eligibility for the 30D credit is contingent on battery components and critical minerals being sourced from non-FEOCs.

As the EV supply chain continues to distance itself from foreign entities of concern, ZETA encourages USTR to be mindful of such overlapping policies when implementing the new duties on Chinese products so as not to create a situation where companies are doubly impacted (e.g., loss of eligibility for the 30D credit *and* increased costs associated with the proposed Section 301 duty rates). Reorienting supply chains is costly and can take years, and companies should not be penalized for abiding by the intent of the Administration’s policies that seek to encourage such action.

At the same time, other elements of global supply chains remain exposed to the effects of strategic Chinese state-sponsored oversupply. We encourage USTR and the Administration to continue working with industry and Congress to identify customized solutions to address the sector-specific effects of these ongoing strategic oversupply actions.

### **Machinery Exclusions Should Be Inclusive of the Parts Necessary to Perform Maintenance and Repairs**

ZETA supports the establishment of an exclusion process targeting machinery used in domestic manufacturing, and we appreciate USTR’s intent behind such a process to continue incentivizing the development of a domestic industrial manufacturing base. To that end, we encourage USTR to look for ways to onshore production of critical machines to support domestic manufacturing of the clean energy supply chain. We also recommend any Section 301 exemptions for machinery include the parts and equipment necessary to perform standard maintenance and repairs. Advanced manufacturing machinery often requires regular maintenance and, in some cases, repairs. Ensuring any exclusion granted for machinery includes parts and equipment necessary to perform that work is critical to ensuring high uptime at domestic manufacturing facilities - consistent with the Administration’s goal<sup>8</sup> of developing an internationally competitive domestic industrial base.

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<sup>4</sup> Pub. L. 117–169 (Sec. 13401)

<sup>5</sup> 89 Fed. Reg. 37706 (May 6, 2024)

<sup>6</sup> <https://www.zeta2030.org/insights/overview-of-final-30d-new-clean-vehicle-tax-credit-requirements>

<sup>7</sup> 89 Fed. Reg. 37079 (May 6, 2024)

<sup>8</sup> Executive Order 14104, “Federal Research and Development in Support of Domestic Manufacturing and United States Jobs” (July 28, 2023); *See* 88 Fed. Reg. 51203

More specifically, USTR should include “parts of” casting machines for which USTR already included exemptions in Annex B. Automotive manufacturers use aluminum die casting machines (giga castings) that must be repaired frequently through a refurbishment process requiring the use of numerous components. While the aluminum die casting machines are not produced in China, there is a limited group of suppliers – less than ten globally – that produce the highly specialized parts consumed through the refurbishment process. Depending on lead times and repair needs, it can be necessary to procure certain parts from Chinese suppliers to ensure that line stoppages are minimized, thereby ensuring continued employment for U.S. automotive workers. Accordingly, we request that USTR allow exclusion requests for “parts of” casting machines (HTS 8454.90.00).

We also note that advanced manufacturing machinery is highly complex and often specialized, meaning that procurement timelines can be lengthy. For battery-specific manufacturing equipment, lead times of twelve to eighteen months from submitting orders to commissioning are common.<sup>9</sup> We appreciate that any manufacturing exclusions would be time-limited in nature but request that USTR work with individual companies to assess situations where the current May 31, 2025 expiration may not be appropriate and thus undermine the goal of incentivizing the development of domestic manufacturing and related supply chains.

### **USTR Should Consider Ways to Limit the Burden of the Proposed Section 301 Duty Rates on U.S. Companies**

Consistent with the Administration’s goal<sup>10,11</sup> of developing robust domestic supply chains in key sectors, ZETA encourages USTR to consider limited ways, in line with its statutory authorities, to phase in the new or modified duties without jeopardizing the viability of domestic businesses. While ZETA is not recommending any one specific option listed below, such options could include:

- Exclusions for the importation of products imported in fulfillment of supply agreements that were entered into effect before the release of the USTR report entitled *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*<sup>12</sup> on May 14, 2024. Such grandfathering exemptions would avoid supply disruptions without

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<sup>9</sup> <https://www.mckinsey.com/capabilities/operations/our-insights/power-spike-how-battery-makers-can-respond-to-surgings-demand-from-evs>

<sup>10</sup> Executive Order 14017, “America’s Supply Chains” (February 24, 2021); *See* 86 Fed. Reg. 11849

<sup>11</sup> Executive Order 14123, “White House Council on Supply Chain Resilience” (June 14, 2024); *See* 89 Fed. Reg. 51949

<sup>12</sup> [https://ustr.gov/sites/default/files/05.14.2024%20Four%20Year%20Review%20of%20China%20Tech%20Transfer%20Section%20301%20\(Final\).pdf](https://ustr.gov/sites/default/files/05.14.2024%20Four%20Year%20Review%20of%20China%20Tech%20Transfer%20Section%20301%20(Final).pdf)

allowing importers to avoid the new or modified Section 301 duties proposed in this action going forward.

- Exclusions for small volume importers and/or small businesses importing goods for which new or modified duties are being applied. Such exemptions would be consistent with the intent of Section 255(d)(1) of the Trade Act of 1974, which requires the Secretary of Commerce to “give priority to firms which are small within the meaning of the Small Business Act<sup>13</sup> (and regulations promulgated thereunder)” when providing financial assistance.
- Consideration of a public, transparent, and time-limited Section 301 exclusion process for products not manufacturing equipment whereby importers could request relief from Section 301 duties. This could create a time-limited transition path for U.S. companies with exclusion requests that address the elements historically considered by USTR, including the “(1) availability of the product in question from non-Chinese sources, (2) attempts by the importer to source the product from the United States or third countries, (3) the extent to which the imposition of Section 301 tariffs on the particular product would cause severe economic harm to the importer or other U.S. interests, and (4) the strategic importance of the product to “Made in China 2025” or other Chinese industrial programs.”<sup>14</sup> Such a process could be conducted on a case-by-case basis and would preserve the Administration’s ability to achieve its overarching policy goal of building a robust, domestic industrial base.<sup>15</sup> A potential example to follow is the Department of Commerce’s Section 232 exclusion process for steel and aluminum, which is already familiar to industry.<sup>16</sup>

The EV industry remains dedicated to developing a robust, resilient, and sustainable supply chain in the United States. Thank you for your consideration of these comments. ZETA and its member companies are available should you have any questions.

Sincerely,



Albert Gore  
Executive Director  
Zero Emission Transportation Association

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<sup>13</sup> Pub. L. 85–536 as amended by Pub. L. 118–31.

<sup>14</sup> <https://crsreports.congress.gov/product/pdf/IF/IF11582>

<sup>15</sup> *Id.* at footnotes 10 and 11.

<sup>16</sup> <https://www.commerce.gov/page/section-232-investigations>