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Mr. Philip Butler
Senior Associate General Counsel
Ms. Megan Grimball
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Section 301 Committee
Office of the United States Trade Representative
600 17th Street, N.W.
Washington, DC 20508

CC: Assistant General Counsel Edward Marcus

Re: Extension of Exclusions and Request for Comments, Docket Number USTR-2024-0001: Comments in Support of Exclusions for Semiconductor and Semiconductor-Related Products

Dear Mr. Butler, Ms. Grimball, and Mr. Marcus:

On behalf of the Semiconductor Industry Association (“SIA”), we respectfully submit these comments in support of actions that could be taken by the Office of the United States Trade Representative (“USTR”), we are filing these comments in response to USTR’s *Extension of Exclusions and Request for Comments: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 88 Fed. Reg. 90,225 (December 29, 2023). SIA appreciates the opportunity to provide comments as USTR considers modification of tariffs under Section 301 with the view of increasing access to and affordability of vital goods needed to address the impacts of the tariffs on U.S. manufacturing, the green energy transition, U.S. workers, U.S. manufacturing, and U.S. competitiveness. SIA also urges USTR to consider SIA’s earlier comments filed in January 2023 as part of the initial round of comments in

the Four-Year Review,¹ which reiterated our earlier requests for exclusions on Lists 1, 2, 3, and 4a.

INTRODUCTION AND BACKGROUND

The Semiconductor Industry Association (SIA) has been the voice of the U.S. semiconductor industry for over 40 years. SIA member companies represent more than 99% of the U.S. semiconductor industry by revenue and are engaged in the research, design, and manufacture of semiconductors. The U.S. is the global leader in the semiconductor industry today. Continued U.S. leadership in semiconductor technology will drive economic strength, national security, and global competitiveness. More information about SIA and the semiconductor industry is available at www.semiconductors.org.

Semiconductors are the bedrock of today's American economy, powering virtually everything digital from cellphones and cars to supercomputers and medical equipment. They are also critical components in a host of American technologies and industrial products, including cars, household and kitchen appliances, clean energy, and medical devices. Few industries, if any, have a supply chain and development ecosystem as complex, geographically widespread, and interdependent as the semiconductor industry. A joint report by the Boston Consulting Group ("BCG") and SIA found that more than 120 countries were involved as an exporter or importer of semiconductor products. The United States is the world leader in this global market. Semiconductors are America's fifth largest export, with exports totaling approximately \$61.1 billion in 2022, the fifth-highest among U.S. exports. The U.S. also maintains a consistent trade surplus in semiconductors, including with China.

¹ <https://www.semiconductors.org/wp-content/uploads/2021/12/SIA-Section-301-Product-Exclusions-Reinstatement-Request-FINAL-12011.pdf>

Domestically, maintaining a strong U.S. semiconductor research, design, manufacturing, and supplier base is both an economic security and a national security imperative. As stated in both the House and Senate versions of the 2021 National Defense Authorization Act: “The leadership of the United States in semiconductor technology and innovation is critical to the economic growth and national security of the United States.” In July 2022, Congress passed the CHIPS and Science Act of 2022 to strengthen domestic semiconductor manufacturing, design and research, fortify the economy and national security, and reinforce America’s chip supply chains. According to a recently published BIS report, the semiconductor industry in the U.S. is spread across 40 states, directly responsible for 345,000 highly skilled and good-paying American jobs, and supports nearly 1.7 million additional U.S. jobs.² The same report found that roughly two thirds of U.S. headquartered front-end manufacturing facilities are located in the United States. More importantly, the semiconductor industry is a critical strategic U.S. asset, and is a conduit for close cooperation with allies and partners. America’s leadership in semiconductor technology helps drive U.S. economic competitiveness, technological leadership, industrial capability, and military strength.

SPECIFIC COMMENTS

We request USTR grant further exclusions under the Four-Year Review for products covered by reinstated exclusions for:

- 20(ttt)(i)(39): automated data processing storage units (other than magnetic disk drive units), not assembled in cabinets for placing on a table or similar place, not presented with any other unit of a system described in statistical reporting number HTS 8471.70.6000;

² <https://www.bis.doc.gov/index.php/documents/technology-evaluation/3402-section-9904-report-final-20231221/file>

- 20(ttt)(iii)(110): printed circuit assemblies (constituting unfinished logic boards) in HTS 8473.30.1180;
- 20(ttt)(iii)(111): parts and accessories of automatic data storage machines of heading 8471, whether or not incorporating fan hubs or LEDs but not incorporating other goods of heading 8541 or 8542 (described in statistical reporting number 8473.30.5100).
- 20(ttt)(i)(60): speed drive controllers for electric motors, each such controller measuring 100 mm or more but not over 130 mm in length, 40 mm or more but not over 125 mm in width and 24 mm or more but not over 85 mm in height (described in statistical reporting number HTS 8504.40.4000);
- 20(ttt)(i)(61): dual layer printed circuit board assemblies, each valued over \$30 but not over \$35 (described in statistical reporting number HTS 8504.90.7500);
- 20(ttt)(i)(69): butt splice connectors, for a voltage not exceeding 1,000 V, each valued not over \$3 (described in statistical reporting number HTS 8536.90.4000); and
- 20(ttt)(i)(70): ring terminals, for a voltage not exceeding 1,000 V (described in statistical reporting number HTS 8536.90.4000);

These products are classified in HTS codes subject to exclusions that were reinstated by USTR as part of a review of previously expired exclusions initiated on October 8, 2021 and announced on March 28, 2022.³ As a result, the reinstated exclusions have remained in effect

³ On October 8, 2021, USTR requested public comments on whether to reinstate certain exclusions previously granted and extended. See 86 Fed. Reg. 56,345 (October 8, 2021). On March 28, 2022, USTR determined to reinstate 352 expired exclusions. See 87 Fed. Reg. 17,380 (March 28, 2022). On December 21, 2022, USTR extended the 352 reinstated exclusions through September 30, 2023. See 87 Fed. Reg. 78,187 (December 21, 2022). On December 29, USTR further extended the reinstated exclusions through May 31, 2024. 88 Fed. Reg. 90,226 (Dec. 29, 2023).

throughout the Four-Year Review process. They represent manufacturing inputs and components that support critical, advanced manufacturing, technologies, and jobs in the United States.

1. Four-Year Review Exclusions for Products under HTS Codes 8471.70.6000, 8473.30.1180, 8473.30.5100, 8536.90.4000, 8504.40.4000, and 8504.90.7500 Would Benefit the United States by Boosting Domestic High-Technology and Industrial Manufacturing, Innovation, and Jobs

As certain semiconductor and semiconductor-related products have been subjected to tariffs, granted exclusions, had their exclusions reinstated and extended, and are now being considered for further exclusions under the Four-Year Review, SIA believes granting these products further exclusions remains in the best interest of the United States. Products under the above-mentioned HTS codes have been granted exclusions for the majority of the time the Section 301 tariffs have been in effect. With the tremendous advances in semiconductor technology over past decades, semiconductors and semiconductor-related technologies are incorporated in virtually every industrial and technology product manufactured in the United States, including cellphones, cars, clean energy, household and kitchen appliances, communications devices, and medical equipment. The reinstated exclusions were granted because the excluded products represent important inputs that support American manufacturing, technology, and jobs, and reimposing tariffs would not advance U.S. goals of eliminating China's unfair acts, policies, and practices or ensuring production of critical technologies in the U.S. Instead, by driving up the cost of manufacturing data storage devices, motors, and electrical machinery, and other products, and conducting electrical testing of the wafers of individual semiconductor chips, the reimposition of Section 301 tariffs would risk driving U.S. manufacturing, jobs, and technologies offshore, or providing a cost advantage to foreign competitors in advanced downstream technologies that are at the heart of global competition and efforts to address climate change.

For the following reasons, continuation of the reinstated exclusions is the answer that best suits U.S. interests, so that USTR is not in the position of continually revisiting and extending the

existing exclusions. While some of the reinstated exclusions fall within broader basket categories at an 8-digit HTS level, we urge USTR to consider narrower exclusions at a 10-digit HTS level that incorporate clear descriptions of the excluded products as under prior USTR practice if exclusions at an 8-digit level prove overbroad or unworkable.

2. SIA's Request for Reinstating Exclusions for Products under HTS Codes 8471.70.6000, 8473.30.1180, 8473.30.5100, 8536.90.4000, 8504.40.4000, and 8504.90.7500 Supports U.S. Manufacturing, Jobs, and Technological Leadership as Supply Chains Continue to Adjust

The reinstated exclusions do not represent high-value technologies; but they are necessary inputs into U.S.-made advanced technologies, industrial products, and systems. Production of many of these inputs moved outside of the U.S. to Asia decades ago.

While the Section 301 tariffs have contributed to supply chain diversification, shifts in supply chains and development of alternate sources are a long-term process and do not take place overnight or even within 2-3 years, especially for products where alternate source of supply are limited or nonexistent, or where alternative sources often involve the use of Chinese inputs that are subject to further assembly elsewhere. China is the predominant source of parts like PCBAs, switching devices, power supplies, electrical connectors, and cables. Given the limited production outside China and the difficulties of sourcing large volumes of quality parts from other suppliers, the reimposition of Section 301 duties on the products we have identified under HTS codes 8471.70.6000, 8473.30.1180, 8473.30.5100, 8536.90.4000, 8504.40.4000, and 8504.90.7500 would likely to lead to sharp increases in prices for American businesses and households –reducing demand – and possible supply chain disruptions.

Ensuring that the U.S. remains a leader in advanced, high-tech manufacturing should be the primary focus of U.S. trade and innovation policy. Although many technology and industrial

products contain imported parts and components (e.g., PCBAs, power supply, electrical connectors, etc.), the imported components are substantially transformed through complex assembly and programming processes in the United States. This supports skilled U.S. manufacturing jobs and highly-skilled software and hardware engineers to design, build, and customize systems and machinery for production in the United States and support continued U.S. leadership in critical technologies. Data storage systems, for example, are the key components of data centers, which often house thousands of servers or storage units shared across multiple servers and provide informational and communication technology (“ICT”) services such as cloud computing, web-hosting, e-commerce, and social networking. Other data-intensive uses of such data storage systems include high-performance computing, the internet of things (“IoT”), and artificial intelligence. Electrical motors play a critical role in greening the U.S. economy and supporting clean energy technologies. Maintaining the product exclusions, and thereby refraining from raising import tariffs on, the above-listed HTS codes as part of the Four-Year Review would ensure that U.S. manufacturers continue to have access to competitively priced inputs and components until supply chains adjust and realistic, non-Chinese alternatives become available. An exclusion would also mean greater predictability for companies investing and manufacturing high-tech products here in the United States and support U.S. manufacturing and employment under the CHIPS Act and Inflation Reduction Act, as companies accelerate efforts to diversify and increase the resiliency of their supply chains. It would also free resources for further investment in innovation and advanced high-tech manufacturing in the United States, while preserving U.S. jobs.

While our member companies and their customers have been working to move certain manufacturing operations outside of China, the fact remains that (1) such transitions take time and

(2) China continues to be an important source of many low-tech and low-value added information/communication/technology/electrical components. The current state of global semiconductor and semiconductor-related technology manufacturing relies on China for certain low-end, manufacturing inputs. Identifying reliable, cost-competitive suppliers, particularly for products where China has been the primary or sole supplier, can take years. American manufacturing cannot afford to wait for completely new supply sources to emerge.⁴

Supplying a portion of products under the above-mentioned tariff codes from China does not threaten U.S. national interests but best serves them by promoting a steady supply of low-tech but necessary manufacturing inputs, boosting high-tech domestic manufacturing in the United States, and maintaining U.S. competitiveness, jobs, and leadership in more advanced technologies that are vital to U.S. economic and national security. Accordingly, we urge USTR to maintain reinstated exclusions for the products we have identified under HTS codes 8471.70.6000, 8473.30.1180, 8473.30.5100, 8536.90.4000, 8504.40.4000, and 8504.90.7500. As noted above, these products are integral, but low-end, components that help fuel domestic manufacturing (and, in turn, further innovation) and jobs in the U.S., not China. The ability to continue sourcing a portion of these products from China while simultaneously working to develop alternatives only serves to make U.S. companies more competitive, support U.S. manufacturing and jobs, and maintain more resilient supply chains while companies are finding new ways of developing alternative sourcing from other countries.

⁴ In the alternative, SIA believes that the foregoing reasoning supports extending the exclusions beyond May 31, 2024 until the next Four-Year Review.

3. SIA Welcomes the Administration's Efforts to Improve the Resilience and Diversity of U.S. Supply Chains

SIA strongly supports the Administration's goal of addressing discriminatory, burdensome, and trade-distorting Chinese practices and improving the diversity and resiliency of America's supply chains. We are working hard to expand production and improve resiliency. Granting permanent exclusions on certain essential low-tech manufacturing inputs from China while maintaining pressure on critical new technologies promotes a balanced approach that will support U.S. manufacturing, maintain U.S. competitiveness in technology, and lower prices of imported semiconductors but maintain long-term pressure to diversify production outside of China for high-tech products at risk of forced technology and IP transfers.

CONCLUSION

For the foregoing reasons, SIA urges USTR to grant permanent exclusions for the specified products under HTS codes 8471.70.6000; 8473.30.1180; 8473.30.5100; 8504.40.4000; 8504.90.7500; and 8536.90.4000, that have routinely been excluded throughout the Four-Year Review Process. SIA believes that doing so would boost the U.S. economy and high-tech manufacturing sectors while maintaining more targeted and effective pressure on China.

Respectfully submitted,

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s/ Warren H. Maruyama

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