

Promoting Supply Chain Resilience

April 22, 2024

The Honorable Katherine Tai
The Office of the United States Trade Representative
600 17th St. NW
Washington, DC 20006

Re: Docket ID USTR-2024-0002

Dear Ambassador Tai,

The Battery Materials and Technology Coalition (BMTC) appreciates the opportunity to provide comments that will help the development of trade and investment policies that promote supply chain resilience. It is crucial that the United States establishes supply chains that are anchored by high environmental and labor standards, resistant to geopolitical disruptions and extreme weather events, and reduce dependence on foreign nations that engage in hostile market practices, such as China. By doing so, the economies of the United States and our allies will be more resilient, flexible, and better shielded from the national security risks associated with reliance on non-allied nations that dominate critical material supply chains.

Background on BMTC

BMTC is a coalition of companies that mine, extract, process, manufacture, and recycle battery materials, as well as develop cathode, anode, cell, pack, and battery technologies in North America. The coalition is comprised of 17 member companies across Canada and the US, including facilities and operations in 27 states and current employment numbers of over 8,700 individuals, with projections for over 23,500 individuals to be employed by 2030. Our coalition is united behind a shared interest in growing a resilient and sustainable North American battery supply chain that ensures industry and government work together to seize the opportunity to secure the supply chains that power our way of life.

Monitoring Systems and Trade Protections and Agreements

A range of policies and tools can be employed to help support growth and investment in the domestic battery supply chain, most of which should focus on nascent industry protection. Because the domestic supply chain is in an infant period, policy tools must be applied to numerous associated subsectors if the whole battery supply chain is to survive and mature. These sectors include but are not limited to mineral extraction and processing; cathode, anode, cell, and pack manufacturing; battery housing construction; and chemical development and production.

Without trade protections from the federal government that can help create a balanced playing field, the battery industry (and countless other related industries) faces an uphill battle when competing against China, which utilizes malicious market practices. Fueled by state-driven industrial policies, low or no wage protections, lack of environmental stewardship, and subsidized production, recent data shows China's overcapacity in the battery industry has quadrupled demand. The glut of Chinese battery materials has roiled markets and significantly impacted prices. For example, China can produce an excess supply of several critical minerals that comprise lithium-ion batteries – including lithium, graphite, manganese, cobalt, and nickel – allowing it to control pricing in global markets. Chinese banks, which are effectively controlled by the Chinese government, have been subsidizing projects across the world with relatively “free” money, making it impossible for

domestic and allied projects to compete in the marketplace. Because China can flood global markets with cheap, highly subsidized critical minerals and drive down prices, domestic producers cannot secure the investments necessary to bolster production capacity to the levels needed to meet domestic demand.

China's overcapacity is not a new phenomenon. The Department of Commerce's monitoring systems for the steel and aluminum industries have served as important tools to inform and address overcapacity. The Administration should consider establishing a similar monitoring system for imports of minerals and materials included on the U.S. Geologic Survey Critical Mineral List. USTR should also consider using trade protections more aggressively to blunt the effects of China's manipulative trade practices and help support domestic industries. This could include undertaking a new Section 301 study focused on battery supply chains, partnering with the Department of Commerce to pursue Section 201 and 232 tariffs, and initiating a review of all HTS codes associated with the battery supply chain to ensure that all materials are receiving proper scrutiny for tracking and reporting purposes.

Strategic cooperation with our allies is paramount to establishing new and fortified supply chains. In any industry, a coalition of international partners that adheres to fair and ethical trade practices can help reduce supply chain risks by encouraging strategic and shared investments, technology exchange, and diplomacy to overcome disruptive global events and adversaries. In the battery supply chain, the United States has recently expanded its collaboration with allies by introducing the Critical Minerals Agreement (CMA). It has signed one CMA with Japan and entered negotiations with the European Union (EU). While a priority must be given to initiatives that facilitate the onshoring of the battery supply chain, we encourage USTR to complete CMA negotiations with the EU and to enter negotiations with selective U.S. allies. CMAs and similarly structured Free Trade Agreements (FTAs) with allied countries help develop alternative supply chains rooted in ethical trade practices and international cooperation, providing a sustainable alternative to China and proxy governments.

Sourcing Decisions and Environmental and Labor Standards

There is one overarching factor when battery OEM's make sourcing decisions: price. The companies from the portion of the battery supply chain that BMTC represents are vulnerable because battery OEM's can purchase the products they produce for cheaper from China. This is unsurprising, given that China's long-established operations in these sectors allow it to overproduce goods and dump them for cheap in the global market. Therefore, the end goal of the U.S. government should be enacting policies, tools, and other initiatives to make U.S. goods more cost competitive. From our experience, geopolitical risks and labor and environmental standards are not priority considerations for most companies when determining where to obtain their battery materials.

However, there is growing pressure in the industry for companies to source from nations that adhere to responsible environmental standards and labor practices. Congress and the Biden Administration have signaled their desire to incentivize such behavior, as illustrated by the FEOC (Foreign Entity of Concern) provisions in the Inflation Reduction Act (IRA). This guardrail prevents domestic companies from benefitting from lucrative tax credits if they source materials from China, Russia, North Korea, or Iran – all of which are guilty of perpetuating deplorable labor standards. Traceability is an inherent component of the FEOC provision – because the source country of the material must be determined - and as the IRA tax credits are fully implemented in the coming years, traceability practices will receive more prominent consideration when companies are making

sourcing decisions. The federal government should continue to promote policies and guardrails that incentivize purchasing materials produced using the highest labor and environmental standards. It is a natural way to disqualify supply chains that originate in FEOCs.

Closing

BMTC would like to thank Ambassador Tai for her ongoing efforts to promote supply chain resilience and for fostering an important dialogue throughout the process. Like many other industries, the domestic battery industry is in a vulnerable position. Its future depends on the ability to establish robust supply chains that allow the United States and its allies to no longer rely on China and other non-allied countries for critical materials. BMTC stands ready to work alongside USTR to fortify the nation's critical supply chains and bolster the U.S. economy.

Sincerely,

Ben Steinberg
The Battery Materials & Technology Coalition