

**GLOBAL HERITAGE ALLIANCE, INC.**

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July 26, 2018

VIA [www.regulations.gov](http://www.regulations.gov) and  
EMAIL: [301investigation@ustr.eop.gov](mailto:301investigation@ustr.eop.gov)

The Hon. Robert Lighthizer  
U.S. Trade Representative  
Office of the U.S. Trade Representative  
600 17<sup>th</sup> Street, N.W.  
Washington, DC 20508

Re: **Request to Appear:** USTR-2018-0026 (Request for Comments Concerning Proposed Modification of Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation)

**Summary of Testimony:** Request to Remove HTS Headings 9705 (Collections and Collector's Pieces) and HTS Heading 9706 (Antiques) from Consideration for Tariff Application

**Pre-Hearing Submission:** Request to Remove HTS Headings 9705 (Collections and Collector's Pieces) and HTS Heading 9706 (Antiques) from Consideration for Tariff Application

Dear Ambassador Lighthizer:

The Global Heritage Alliance, a 501(c) (4) advocacy organization, and the Committee for Cultural Policy, a sister 501 (c) (3) educational and policy research organization, request to appear at the upcoming Section 301 Committee Public Hearing. Both groups, on behalf of collectors, the small businesses of the antiquities trade, and museums, respectfully request that USTR remove HTS Headings 9705 (Collections and Collector's Pieces) and HTS Heading 9706 (Antiques) from consideration for tariff application.

The Committee for Cultural Policy (CCP) is an educational and policy research organization that supports the preservation and public appreciation of art of ancient and indigenous cultures. CCP supports policies that enable the lawful collection, exhibition, and global circulation of artworks and preserve artifacts and archaeological sites through funding for site protection.

The Global Heritage Alliance (GHA) advocates for policies that will restore balance in U.S. government policy in order to foster appreciation of ancient and indigenous cultures and the preservation of archaeological and ethnographic artifacts for the education and enjoyment of the

American public. GHA supports policies that facilitate lawful trade in cultural artifacts, and promotes responsible collecting and stewardship of archaeological and ethnological objects.

As will be discussed further in our testimony, the proposed tariff will only further China's efforts—aided and abetted by our own State Department—to repatriate Chinese art to China for the benefit of its government, the connected insiders that run its auction houses, and for its wealthy collectors.

**A. Request to Appear**

The undersigned, GHA's executive director, will appear at the hearing on behalf of GHA and CCP. My contact information is as follows:

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**B. Summary of Testimony**

GHA and CCP oppose tariffs on "Collections and collectors' pieces of zoological, botanical, mineralogical, anatomical, historical, archaeological etc. interest" classified under HTS Heading 9705 and "Antiques of an age exceeding one hundred years," classified under HTS Heading 9706. GHA's and CCP's testimony will explain why the proposed tariffs only benefit China's mercantilist approach to art which has already been facilitated by the State Department's 2009 decision to embargo cultural goods on behalf of the Chinese government. We will also explain why imposing duties on art objects that have previously been exempt from such taxes will harm U.S. interests and cause disproportionate harm to the small or medium sized businesses of the art trade as well as museums and collectors.

**C. Pre-Hearing Submission**

The proposed tariffs on collections and collector's pieces (HTS Headings 9705) and antiques (HTS Heading 9706) will only benefit Chinese interests and harm American collectors, small businesses of the art and antiquities trade, and the study and appreciation of historic Chinese cultural artifacts in the United States.

The cultural goods listed in these headings are unlike most manufactured goods. Art is not typically subject to customs duties because our government has generally sought to encourage cultural exchange. *See Importing Personal and Commercial Original Works of Art, Paintings, Drawings, Pastels, Collages, Decorative Plaques, Lithographs, Original Prints and Sculptures*, CPB Information Center (updated 9/29/17), available at

[https://help.cbp.gov/app/answers/detail/a\\_id/360/kw/importing%20fine%20art/session/L3RpbWUvMTUzMjM4MDQ5MS9zaWQvLTdPajZxU24%3D](https://help.cbp.gov/app/answers/detail/a_id/360/kw/importing%20fine%20art/session/L3RpbWUvMTUzMjM4MDQ5MS9zaWQvLTdPajZxU24%3D) (last visited July 23, 2018) and *Duty on Personal and Commercial Imports of Antiques, Artwork*, CBP Information Center (updated 11/7/15) available at [https://help.cbp.gov/app/answers/detail/a\\_id/359/kw/importing%20fine%20art/session/L3RpbWUvMTUzMjM4MDQ5MS9zaWQvLTdPajZxU24%3D](https://help.cbp.gov/app/answers/detail/a_id/359/kw/importing%20fine%20art/session/L3RpbWUvMTUzMjM4MDQ5MS9zaWQvLTdPajZxU24%3D) (last visited July 23, 2018). Moreover, many cultural goods that fall within HTS Heading 9705 and all the cultural goods that fall under HTS Heading 9706 are not of recent Chinese manufacture, but were produced long ago, and have been collected for decades, if not hundreds of years, not only in China itself, but elsewhere in the Far East, the United States and Europe. Simply, placing duties on such objects will not “hurt” Chinese industry, but place further disincentives on Americans from importing Chinese cultural goods long held in third countries, including our allies in Europe and Japan.

Perversely, new import duties would also only further play into the hands of the Chinese government and auction houses associated with its governing elite, like Poly Group (a company associated with a major Chinese weapons producer) controlled by the family of former leader Deng Xiaoping, and China Guardian Auctions, run by Chen Dongsheng, the grandson-in-law of the PRC’s founder, Mao Zedong. See *US Gives China License to Loot*, Cultural Property News (Nov. 11, 2017) available at <https://culturalpropertynews.org/us-gives-china-license-to-loot/> (last visited July 24, 2018); Deborah M. Lehr, *China’s Art Market is Booming, But Not for Foreigners*, The Diplomat (Feb. 25, 2017) available at <https://thediplomat.com/2017/02/chinas-art-market-is-booming-but-not-for-foreigners/> (last visited July 24, 2018). Incredibly, our own State Department has already severely damaged the ability of U.S. Auction houses and dealers to import Pre-Tang Dynasty art from third countries for resale with ill-considered import restrictions on Chinese artifacts. See *Import Restrictions Imposed on Certain Archaeological Material from China*, 74 Fed. Reg. 2838 (Jan. 16, 2009); *CPAC Testimony: Will the US Extend China’s Cultural Monopoly?*, Cultural Property News (May 6, 2019) available at <https://culturalpropertynews.org/cpac-testimony-us-grants-china-cultural-monopoly/> (last visited July 24, 2018). Imposing tariffs on the limited universe of artifacts that may still be imported under current CBP procedures, i.e., artifacts documented as being outside of China as of the 2009 effective date of import restrictions,<sup>1</sup> will do absolutely nothing to achieve the purported aims of the proposed tariffs. Instead, such tariffs will further damage the ability of the small businesses of the art and antiquities trade to import Chinese art from third countries, as well as make it even more difficult for collectors and museums to acquire such art.

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<sup>1</sup> Although the Cultural Property Implementation Act, 19 U.S.C. §§ 2601, 2606 also allows imports of artifacts accompanied by Chinese export certificates, GHA and CCP do not believe that the Chinese Government in fact allows legal export of much art, but instead seeks to retain as much Chinese art within China itself as part of its efforts to “right the historical wrong” of art exports that took place when the Chinese Empire was in terminal decline.

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Thank you in advance for your consideration of the concerns of collectors, the art and antiquities trade and museums.

Sincerely,

/s/

Peter K. Tompa