



December 1, 2021

General Counsel Greta Peisch  
Office of the United States Trade Representative  
600 17th Street, N.W.  
Washington, D.C.

Dear Ms. Peisch:

The Office of the U.S. Trade Representative (USTR)'s consideration to reinstate 549 Section 301 exclusions is an important first step to re-evaluating the impact of these tariffs on American businesses. However, Section 301 List Three tariffs remain in place for 20 vegetable and flower seed products that are not eligible for consideration under this initial review. While the U.S. seed industry was successful in receiving an initial exclusion for products, since August 8, 2020, American companies have been required to pay a 25% tariff on their imported seed products from China. **On behalf of these impacted U.S. seed companies, the American Seed Trade Association (ASTA) urges USTR to expeditiously initiate a similar review process for products such as these, which received an initial exclusion but were not granted a second extension to December 31, 2020.**

The imposition of a 25% tariff on these critical seed products harms the U.S. agriculture sector including U.S. seed producers, U.S. farmers and gardeners, U.S. leadership in plant breeding, and the many U.S. farming, packaging, distribution, retail, scientific, and research & development jobs that depend on predictable and competitive sourcing of high-quality seeds. U.S. seed companies develop parent lines of their seed varieties in the U.S., send the lines to China for commercial production (multiplication), and bring the seed back to the U.S. for conditioning, packaging and sale or re-export to foreign markets.

Impacted U.S. seed companies range in size from small family operations of three employees, to employee-owned cooperatives, seed companies specializing in organic seed, and larger multinational corporations. After months of bearing the burden of additional tariff costs, many companies have been forced to raise the cost of their seed to U.S. farmers, producers, and home gardeners to account for the additional tariff expense. For some companies, the tariff burden ranks in their top five business expenditures and limits their ability to invest in company infrastructure, research and development, or additional U.S. personnel.

ASTA's member companies are part of a global industry and supply chain. Seed varieties can be developed in the U.S., produced abroad, re-exported back to the United States for processing and packaging, and then sold in the United States or re-exported again to destinations in Europe, Asia, Latin America, and Africa. The process from seed research to final sale takes place in multiple countries as companies take advantage of different regions' climate and available workforce. As a result, seed regularly moves between as many as six countries before it is planted by a farmer. The

**About ASTA:** ASTA was founded in 1883 and is one of the oldest trade organizations in the United States. Our nearly 700 member companies produce everything from grass and turf seed to row crop seed, to vegetable and flower seed, to true potato seed, vegetable, and flower seeds, and associated products and services throughout the world. 95% of ASTA's active members are small businesses, many of them family-owned that report annual sales of less than \$15 million.

U.S. seed industry must be able to move seeds and genetic material globally to innovate and meet production demands.

### **Conditions for Vegetable and Flower Seed Production**

Vegetable and flower seed production requires intricate hand pollination and harvesting practices on plots of land that are often smaller than an acre. Production at this small scale is very rare in the U.S. For this reason, U.S. seed companies are forced to go overseas to partner with farmers that are willing to work on these small acreages and to perform these tasks by hand. In China, companies have established relationships spanning decades with local farmers who have developed this expertise.

Additionally, the Gansu province in China possesses a 40-degree north latitude which is a similar latitude to American production with little daylength shift between them. The location, combined with other favorable agronomic and climactic conditions, are the primary reasons that U.S. seed companies continue to produce seed in China.

### **Identification of Alternative Locations**

For the last several years, impacted seed companies have been working to identify alternative production locations. However, to maintain the production of high-quality seed, it takes between 5-10 years to conduct seed trials and train local growers. The pandemic limited these efforts due to the inability to send subject matter experts overseas to establish trials and training. Companies have been successful in diverting some of their production away from China but have experienced challenges with high costs and need for additional training. For companies producing Certified Organic Seed, it is an additional challenge to find suitable production partners and locations.

Nevertheless, vegetable and flower seed imports from China to the U.S. have decreased from approximately \$61 million in 2018 to \$26 million in 2020. Shifting production due to tariffs has been a contributing factor, but not the only factor, as phytosanitary restrictions halted imports of tomato and pepper seed from China during this period as well.

### **Seasonality of Seed Importation and Importance of Retroactive Duty Relief**

A representative survey of six of ASTA's impacted companies indicates that they have paid a combined total of over \$3 million in duties since tariffs were re-enacted in August 2020.

U.S. seed companies import their seed seasonally, primarily in the fall and winter months. Retroactive duty relief was vital during the first exclusion process to eliminate their tariff burden over the year. A limited window for duty refunds which did not consider the peak months of seed importation would not benefit the U.S. seed industry and their farmer customers adequately.

In closing, ASTA appreciates the opportunity to share this information with USTR. We urge your consideration of further relief for the U.S. seed industry and impacted farmers, producers, and



home gardeners. We also support USTR's simultaneous efforts to ensure that China fulfills its obligations under the Phase One agreement.

Sincerely,

Andrew LaVigne  
President and CEO  
American Seed Trade Association

CC:

Deputy Assistant U.S. Trade Representative for Office of Monitoring and Enforcement, William Busis, USTR

Assistant U.S. Trade Representative for Agricultural Affairs, Julie Callahan, USTR

Acting Deputy Undersecretary for Trade and Foreign Agricultural Affairs, Jason Hafemeister, USDA

Enclosure: List of U.S. seed products impacted, by HTS code



### **List of HTS Codes for Seed Products on Section 301, List 3**

All products were eligible for limited exclusion from September 24, 2018 to August 7, 2020. All products currently face a 25% tariff.

#### Temporary Exclusion Approved May 28, 2020

- 1) 0713.33.1040 (Kidney Bean Seeds)
- 2) 0713.50.1000 (Broad Bean Seeds)
- 3) 1207.70.0020 (Cantaloupe Seeds)
- 4) 1207.70.0040 (Watermelon Seeds)
- 5) 1209.30.0090 (Herbaceous Flower Seed)
- 6) 1209.91.6010 (Sweet Pepper Seed)
- 7) 1209.91.8010 (Carrot Seed)
- 8) 1209.91.8020 (Radish Seed)
- 9) 1209.91.8040 (Cucumber Seed)
- 10) 1209.91.8050 (Lettuce Seed)
- 11) 1209.91.8060 (Squash Seed)
- 12) 1209.91.8070 (Tomato Seed)

#### Temporary Exclusion Approved March and April 2020

- 13) 1209.91.8090 (Eggplant Seed)
- 14) 1209.91.8090 (Endive Seed)
- 15) 1209.91.8090 (Gourd Seed)
- 16) 1207.70.0075 (Honeydew Seed)
- 17) 1209.91.6090 (Hot Pepper Seed)
- 18) 1209.91.8055 (Pumpkin Seed)
- 19) 1209.91.8090 (Tomatillo Seed)
- 20) 0713.31.1000 (Mung Bean Seed)