

September 6, 2018

The Honorable Robert Lighthizer  
United States Trade Representative  
600 17th Street NW  
Washington, DC 20508

**RE: Multi-Industry Association Comments – Proposed Modification of Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation (Docket No. USTR-2018-0026-0001)**

Dear Ambassador Lighthizer:

The undersigned organizations representing U.S. manufacturers, farmers and agribusinesses, retailers, technology companies, natural gas and oil companies, importers, exporters, and other supply chain stakeholders are writing to share our comments in response to the proposed 10% or 25% additional *ad valorem* duty increase on 6,031 8-digit tariff lines which, in aggregate, encompass approximately \$200 billion in imports from China. The proposed tariff list (List 3) covers products across a much wider range of sectors and product categories than the two previous lists, which will result in a broader negative impact to a much wider group of companies, their workers, and American consumers at large. We oppose the imposition of new tariffs at either 10% or 25% on List 3.

Continuing the tit-for-tat tariff escalation with China only serves to expand the harm to more U.S. economic interests, including farmers, families, businesses, and workers. Unilaterally imposing tariffs on hundreds of billions of dollars in goods invites retaliation and has not resulted in meaningful negotiations or concessions.

Our organizations agree that longstanding issues in China have negatively impacted many U.S. companies, and we support the Administration's efforts to negotiate meaningful, binding and long-term solutions with the Chinese government. As we have commented previously, applying these high levels of tariffs on Chinese products will continue to miss the mark. Rather than facilitating negotiations, each round of tariffs raises costs on American businesses and consumers. These taxes undermine the competitiveness of U.S. manufacturers and services providers who rely on Chinese imports to make and sell their goods and services in the United States and around the world.

Assumptions that U.S. companies can simply move their production out of China are incorrect. Global supply chains are extremely complex. It can take years to find the right partners who can meet the proper criteria and produce products at the scale and cost that is needed. We do not support the U.S. government using tariffs as a means to induce U.S. companies to change their sourcing strategies.

USTR is proposing the imposition of either a 10% or 25% tariff on an additional \$200 billion in Chinese imports. China has announced its intent to retaliate against an additional \$60 billion in U.S. exports with tariffs at 5%, 10%, 20%, and 25% levels for different product categories. With each new round of escalating tariffs, the products impacted have a more tenuous connection back to the market access and tech-transfer policies of the Chinese government that triggered the Section 301 investigation and have little relationship to the “Made in China 2025” strategy. As stated in the July 17th Federal Register Notice, the additional \$200 billion product list is intended to punish China for its retaliatory tariffs and to force the Chinese government to reform its practices. Tit-for-tat tariffs are counterproductive and so far have only produced increased costs for American businesses, farmers, importers, exporters and consumers.

U.S. manufacturers, service providers, and consumers will bear the brunt of these new proposed tariffs. The negative impact will fall particularly hard on small- and medium-sized businesses and their workers who lack the scale, resources, and options to weather or adapt to these tariffs. And once these tariffs go into effect, taking them down may not happen anytime soon, as both sides harden their positions. Without any timeline for when these tariffs will be removed, the added costs and negative effects on American businesses, farms, and citizens will only compound over time.

Our organizations also oppose the suggestion that the U.S. may impose tariffs on all Chinese imports. Already at an aggregate \$250 billion, the effects of the Administration’s actions will most hurt the very consumers, small- and medium-sized businesses, manufacturers, farmers and workers the Administration wants to protect. Should all trade to and from China be subject to tariffs, the impacts and disruptions to the U.S. economy would reach across the entire country, from sector to sector, and negatively impact every American family. Some in the Administration have claimed that the escalating tariffs through various actions by the Administration and retaliatory actions by our trading partners represent mere “rounding errors” in comparison to the size of the U.S. and Chinese economies. But imposing a 25% tariff on an aggregate \$250 billion in Chinese annual imports would result in U.S. businesses and consumers paying a total of \$62.5 billion in additional tariffs annually. To place this in context, in 2017 the United States collected approximately \$33 billion in tariffs – total – on all imports from the world, including China. And U.S. businesses and citizens – not Chinese companies or the government – pay these tariffs on U.S. imports.

As we have recommended previously, we encourage the Administration to suspend further tariff actions and engage with China, working in concert with our trading partners and allies, to secure meaningful, sustainable, and significant changes to Chinese policies that disadvantage U.S. economic interests and that do not comply with the letter or spirit of the rules-based trading system. Brinkmanship will only bring more hardship and higher costs for American businesses, manufacturers, farmers, families, and workers.

In the Federal Register Notice, USTR asked that two specific questions be addressed in written comments:

First, whether imposing increased duties on a particular product would be practicable or effective to obtain the elimination of China's acts, policies, and practices, and

Second, whether maintaining or imposing additional duties on a particular product would cause disproportionate economic harm to U.S. interests, including small- or medium-size businesses and consumer.

We offer the following comments and responses to your questions.

**1) *The Broad Coverage of Tariff Categories Directly Harms U.S. Companies, Farmers, Small Businesses, and Consumers – But Disproportionately Harms U.S. Manufacturers***

The broad reach of the 6,031 proposed 8-digit product categories will harm businesses, farmers and consumers across the U.S. economy and our member organizations. Unlike the prior lists, these products cover a far wider range of Chapters in the U.S. Harmonized Tariff Schedule, including seafood, electronics, chemicals, furniture, travel goods, energy, vehicles, toiletries, wood products, textiles, garden tools, machinery and many more.

According to an American Action Forum report<sup>1</sup>, the proposed tariffs at a 10% level could raise overall costs for both U.S. consumers and businesses by roughly \$19.7 billion per year. At the 25% level, those costs might rise to \$48.2 billion. This report concludes, moreover, that 70% of the product categories included in the proposed tariff list are used by U.S. companies for domestic production, and fully 98% of the included product categories affect the U.S. manufacturing industry. Undermining the competitiveness of U.S. companies through these tariffs – both to sell in the U.S. market and to export from the United States around the world – will not result in the elimination of China’s acts, policies and practices, but instead will strengthen China’s competitive position globally. U.S. manufacturers and consumers will bear the brunt of the 6,031 proposed tariff increases – not Chinese companies or businesses – and therefore the negative economic harm to the United States will be disproportionate.

The Federal Register Notice states that the Administration has proposed the \$200 billion list in response to Chinese retaliatory tariffs, and implicitly acknowledges that the expansive increase in products and trade that would be impacted by a 10% or 25% tariff no longer is connected back to the underlying Chinese government policies or the projected \$50 billion harm that underpin the Section 301 investigation and USTR’s report on Chinese policies. This new list is punitive by design, but it will punish U.S. manufacturers and consumers hardest.

**2) *The Proposed Tariffs Will Have a Disproportionate Negative Impact on U.S. Small- and Medium-Sized Companies and Consumers***

Many U.S. small- and medium-sized businesses import finished products from China that they sell or use to run their business. Many others import inputs that they incorporate into products they make and sell in the United States. Unlike larger companies, these U.S. companies may not have any alternative suppliers outside of China or the ability to locate new suppliers who can meet their product quality, compliance, specification and cost needs. Many of these

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<sup>1</sup> See <https://www.americanactionforum.org/research/calculating-the-costs-of-the-u-s-china-trade-war-the-administrations-new-tariffs-on-200-billion/>

businesses operate on low margins. A 10% tariff or tax on those imports they rely upon could put many out of business, while a 25% tariff or tax on those imports would almost certainly exceed the ability of most small businesses to absorb or pass on that cost. Their orders will disappear, and they are the least likely to weather the effects of these tariffs.

Small businesses in the United States are disproportionately responsible for job growth during economic upturns and often are the leading innovators in the U.S. economy. Crippling their ability to make products or provide their services through these proposed tariffs could do more damage to the U.S. innovation economy than the problematic Chinese policies outlined in the Section 301 investigatory report. Should these companies go out of business or become uncompetitive both in the U.S. and world markets, the American economy will suffer.

Even for larger companies, a new 25% tax on finished products, ingredients, components or other products on the proposed list will lead to significant disruption and constrain growth and hiring. As these new tariffs hit small and large businesses alike, some or all of the additional 10% or 25% costs will certainly be passed on to consumers.

### ***3) Imposition of the Tariffs Will Trigger Broad Retaliation on U.S. Exports to China***

To date the Chinese have retaliated against each U.S. tariff action pursuant to the Section 301 investigation. Most recently, the Chinese government released a \$60 billion retaliatory tariff list on U.S. exports in response to the proposed \$200 billion counterretaliation list. Although the United States imports more goods than it exports to China, each retaliatory action from China further closes the world's second largest economy to U.S. exports. The proposed tariffs will also negatively impact U.S. service providers selling in China. Should the \$200 billion list of products be subject to a 10% or 25% tariff, U.S. manufacturers, farmers, ranchers, fishermen, and others will be hit in both directions. If past actions are predictive, our members will soon be facing tariffs on all their imports from China as well as all their exports to China. The economic damage to both countries will be significant, and there will be few, if any, winners.

### ***4) The Additional Tariffs Will Cause Significant Supply Chain Disruptions***

As we have noted in prior comments, the Administration continues to overestimate the ability of U.S. companies to shift supply chains out of China or for farmers and fishermen to redirect their exports to other markets. Supply chains and export markets develop over time and vary significantly in complexity, scale, and flexibility across product categories. But for any product, a U.S. importer would have to determine if an alternative supplier in another country could meet the cost, quality, safety, compliance and certification requirements to sell its product in the U.S. market or other foreign markets. Even if all these criteria could theoretically be met, the capacity for foreign suppliers to meet demand presents another key challenge.

As U.S. competitors will need to seek alternative suppliers simultaneously, the twin problems of scarcity and price gouging will emerge. These, in turn, will increase cost of goods and erode U.S. companies' competitiveness, driving inflation for U.S. consumers. Then there is the question of how U.S. companies reliant on China sourcing can possibly act on the Administration's likely timeline. If the List 1 and List 2 processes are a guide, companies

impacted by List 3 will have mere weeks to find new, non-China based suppliers prior to imposition of the proposed tariffs. The necessary research and relationship-building takes time even when undertaken voluntarily; it cannot be rushed to meet an externally-imposed deadline. Of course, small- and medium-sized businesses will be least able to navigate these business risks and increased costs, but for all affected companies the challenge will be significant.

A 10% or 25% tariff on \$200 billion in Chinese imports could also depress the U.S. ports' economy as increased costs reduce demand and reduce trade. Moreover, the increased costs on inputs will reduce the competitiveness of U.S. exports that incorporate those imports and thus could depress exports as well, further harming U.S. ports. U.S. companies capture the highest value of most global value chains, so a reduction in trade due to these tariffs will disproportionately harm U.S. companies with less impact on their Chinese suppliers who assemble, finish, or package these products.

The holiday season is fast approaching. Orders to meet holiday season demand are in most sectors already made. Indeed, within weeks of the date of this submission, shippers will begin to move products to the United States for holiday season purchases. Again, on the Administration's apparent timeline, the 10% or 25% tariff on \$250 billion (or perhaps more) of goods from China this fall will hit just as those products enter United States ports, denying U.S. importers and consumers any time to adjust those orders for this season. The situation will be ripe for significant supply chain disruption during the most critical time for retailers and their suppliers.

Finally, the deteriorating trade relationship between the United States and China has generated uncertainty and unease among our member companies about what may come next. That uncertainty is anathema for businesses large and small that are trying to plan new investments, expand hiring, ramp up research and development, and roll out new products. The recent resumption of U.S.-China talks was a hopeful sign, but it remains unclear when and how these talks will lead to high-level resolution of the parties' major differences. In the meantime, our member companies are in limbo and planning for the worst, with little understanding of where the dispute will lead. This uncertainty is deeply disappointing, since it comes during a period of exceptional American economic growth and prosperity. So long as the U.S.-China trade relationship deteriorates, our companies will not be able to benefit in full from this performance. Indeed, the longer the dispute persists, the greater the chance that it will erode an economic expansion for which the Administration can rightly claim great credit.

## ***Conclusion***

Recognizing the significant challenges that Chinese government policies present for our members and for U.S. economic interests, we recommend that the U.S. government and Chinese government suspend further tariff actions and begin a comprehensive negotiation to address longstanding trade and investment issues. Although the Administration continues to argue that it will escalate tariff actions against China until China alters its behavior, we have seen no indication of China changing course. We request that every effort be undertaken now to initiate meaningful negotiations expeditiously. We recommend no further tariff actions be taken until those negotiations have a chance to produce significant and verifiable results, and the

Administration can fully assess the impact of tariffs thus far on American businesses, farmers, manufacturers, jobs, and consumers.

We appreciate your consideration of our comments.

Sincerely,

Accessories Council

Agriculture Transportation Coalition (AgTC)

Airforwarders Association

American Apparel & Footwear Association (AAFA)

American Association of Exporters and Importers

American Association of Port Authorities

American Bakers Association

American Beverage Association

American Chemistry Council

American Coatings Association

American Down and Feather Council

American Frozen Food Institute

American Home Furnishings Alliance

American Lighting Association

American Pet Products Association

American Pyrotechnics Association

American Specialty Toy Retailing Association (ASTRA)

American Rental Association

Americans for Farmers and Families

Association For Creative Industries (AFCI)

Association for PRINT Technologies

Association of Equipment Manufacturers (AEM)

Association of Home Appliance Manufacturers

Auto Care Association

Business and Institutional Furniture Manufacturers Association (BIFMA)

California Retailers Association

CAWA – Representing the Automotive Parts Industry

Chemical Council of New Jersey

Chemical Industry Council of California

Chemical Industry Council of Illinois

Chemistry Council of Missouri

Coalition of New England Companies for Trade (CONNECT)

Coalition of Services Industries (CSI)

Columbia River Customs Brokers and Forwarders Assn.

Computer & Communications Industry Association (CCIA)

Computing Technology Industry Association (CompTIA)

Connecticut Retail Merchants Association

Consumer Technology Association

Corn Refiners Association

Council of Fashion Designers of America, Inc. (CFDA)

CropLife America  
Customs Brokers & Freight Forwarders of Northern California  
Customs Brokers & Freight Forwarders Assn. of Washington State  
Delaware Chemistry Council  
Distilled Spirits Council  
Farmers for Free Trade  
Fashion Accessories Shippers Association (FASA)  
Florida Retail Federation  
Footwear Distributors and Retailers of America (FDRA)  
Foreign Trade Association (FTA)  
Fragrance Creators Association  
Gemini Shippers Group  
Georgia Chemistry Council  
Georgia Retailers  
Grocery Manufacturers Association  
Independent Bakers Association  
Halloween Industry Association (HIA)  
Hardwood Federation  
Home Fashion Products Association  
Information Technology Industry Council (ITI)  
Institute of International Container Lessors (IICL)  
International Foodservice Distributors Association  
International Housewares Association  
International Wood Products Association  
Internet Association  
Juice Products Association  
Juvenile Products Manufacturers Association  
Kentucky Forest Industries Association  
Los Angeles Customs Brokers and Freight Forwarders Assn.  
Louisiana Retailers Association  
Maine Lobster Dealers' Association  
Manufacture Alabama Chemistry Council  
Maryland Retailers Association  
Massachusetts Chemistry & Technology Alliance  
Methanol Institute  
Michigan Chemistry Council  
Midwest Food Products Association  
Missouri Retailers Association  
Motor & Equipment Manufacturers Association  
Motorcycle Industry Council  
National Association of Chain Drug Stores (NACDS)  
National Association of Chemical Distributors  
National Association of Foreign-Trade Zones (NAFTZ)  
National Association of Music Merchants  
National Association for Surface Finishing  
National Confectioners Association

National Council of Chain Restaurants  
National Customs Brokers and Forwarders Association of America (NCBFAA)  
National Fisheries Institute  
National Foreign Trade Council  
National Marine Manufacturers Association  
National Restaurant Association  
National Retail Federation  
National Wood Flooring Association  
Natural Products Association  
Nebraska Retail Federation  
New Jersey Retail Merchants Association  
New York State Chemistry Council  
North American Association of Uniform Manufactures and Distributors (NAUMD)  
North American Meat Institute  
North Carolina Retail Merchants Association  
Ohio Council of Retail Merchants  
Oklahoma Retail Merchants  
Pacific Coast Council of Customs Brokers and Freight Forwarders Assns. Inc.  
Pacific Northwest Waterways Association (PNWA)  
Pennsylvania Retailers' Association  
PeopleForBikes  
Personal Care Products Council  
Pet Industry Distributors Association  
Pet Industry Joint Advisory Council (PIJAC)  
Petroleum Equipment & Services Association  
Power Tool Institute, Inc (PTI)  
Promotional Products Association International (PPAI)  
Plumbing Manufacturers International  
Retail Council of New York State  
Retail Industry Leaders Association (RILA)  
Retailers Association of Massachusetts  
RISE (Responsible Industry for a Sound Environment)  
San Diego Customs Brokers and Forwarders Assn.  
SEMI  
Semiconductor Industry Association (SIA)  
SNAC International  
Snowsports Industries America  
Society of Chemical Manufacturers & Affiliates  
Software & Information Industry Association  
South Carolina Manufacturing Alliance  
South Carolina Retail Association  
Specialty Equipment Market Association  
Sports & Fitness Industry Association  
Telecommunications Industry Association (TIA)  
Texas Chemical Council  
Texas Retailers Association

The Household and Commercial Products Association (HCPA)  
The Fashion Jewelry and Accessories Trade Association (FJATA)  
The Fertilizer Institute  
The Hardwood Manufacturers Association  
The North Carolina Forestry Association  
The Western Hardwood Association  
Toy Association  
Travel Goods Association (TGA)  
Truck & Engine Manufacturers Association  
U.S. Hide, Skin and Leather Association  
US-China Business Council (USCBC)  
United Fresh Produce Association  
United States Council for International Business  
United States Fashion Industry Association  
Virginia Manufacturers Association  
Virginia Retail Merchants Association  
Washington Council for International Trade  
Washington Retail Association  
World Pet Association (WPA)