



Submission of the

U.S. Chamber of Commerce

for the

**Proposed Determination on Action Pursuant to Section
301: China's Acts, Policies, and Practices Related to
Technology Transfer, Intellectual Property, and
Innovation**

Docket Number: USTR-2018-0005

May 9, 2018

The U.S. Chamber of Commerce, the world’s largest business organization representing the interests of more than 3 million businesses of all sizes, sectors, and regions, appreciates the opportunity to comment on actions by the United States related to the Section 301 investigation of China's laws, policies, practices, or actions related to technology transfer, intellectual property, and innovation.

Many of our members are significant beneficiaries of U.S.-China commercial engagement. The U.S. Chamber of Commerce is committed to working in a constructive way for mutually beneficial ties and realizing the full potential of our relationship. Nevertheless, the U.S. Chamber has been consistent in expressing our concerns over many years regarding China’s ongoing intellectual property rights violations, forced technology transfers and state interventions, and the resulting harm to U.S. companies, workers, consumers, and competitiveness. In addition to eliminating policies that coerce technology transfers, and on behalf of those firms and workers who are adversely affected, the U.S. Chamber has long urged China to adopt systemic reforms that go beyond limited actions to gradually open select industries—and for the United States to align its own policies to those we seek in China—including by:

- adopting a “negative list” approach to restricting foreign ownership of Chinese enterprises, limiting to a carefully defined and narrow list of specific exceptions for sensitive sectors comparable in number and scope to U.S. restrictions;
- dramatically curtailing state financial support and regulation that distorts market competition across numerous sectors in China and globally, including under guiding frameworks such as Made in China 2025, and establishing guardrails on excessive provincial and municipal investment in strategic sectors to limit unintended development of overcapacity in such sectors;

- adjusting “secure and controllable” and other technology policies that discriminate against foreign information communication technology (ICT) companies to ensure such policies are as least trade-restrictive as possible; and
- establishing a presumption that all categories of data can be transferred across borders without restriction, subject only to a narrowly defined national security exemption.

Notwithstanding our serious concerns about Chinese policies and practices and our alignment with many of the findings of the Administration’s Section 301 investigation to date, we wish to express our strong opposition to the Administration’s possible imposition of unilateral tariffs as a policy response to the challenges posed by China’s approach to technology transfer, intellectual property, and innovation. We believe that the proposed tariff list, and escalating tariff threats made by the Administration, will not effectively address or advance our shared goal of changing these harmful Chinese practices and instead will prove to be counterproductive for the following reasons:

Tariffs are hidden, regressive taxes that will be paid by U.S. businesses and consumers, paradoxically harming U.S. competitiveness.

- Tariffs will be particularly damaging to U.S. small and medium-sized manufacturers and exporters who rely on imported components and inputs to produce goods in the United States, for sale in domestic and global markets. Indeed, the U.S. target list focuses heavily on imported intermediate goods (about 40%) and capital goods (about 40%), with the result that the tariffs’ impact would fall overwhelmingly on the American manufacturing sector. The global competitiveness of U.S. manufacturing — in terms of both the U.S. and foreign markets — would take a substantial hit, resulting in costs to U.S.

manufacturing jobs and exports. Small and medium-size manufacturers would be especially hard hit since they have fewer resources to make rapid changes to their supplier network.

- According to a recent study from the National Retail Federation and the Consumer Technology Association, the proposed tariffs on \$50 billion of Chinese imports coupled with retaliation by China, would reduce gross domestic product by nearly \$3 billion and destroy 134,000 American jobs. Given comparative advantages of other markets, it is highly likely that production of imported goods subject to any such tariffs would not move back to the United States, but instead migrate to other jurisdictions.
- U.S. manufacturers of high-technology products who rely on imported industrial inputs to support jobs in the United States will see their input costs increase due to tariffs. Imported hard drives (84717040) and parts/accessories of printed circuit assemblies (84733020) are essential components in technology products manufactured in the United States such as servers. The imposition of tariffs will represent a tax on these U.S. manufacturers, workers, and on the products they build and export. This will potentially make these products more expensive, raising the price of finished goods and negatively impacting U.S. jobs as foreign competitors gain market share.
- Tariffs on consumer products imported from China will raise prices for American families. For example, according to another study by the Consumer Technology Association and the National Retail Federation, even accounting for alternative sources of supply, proposed tariffs on televisions, monitors, batteries, and printer cartridges would have a negative impact on American consumers. For televisions alone, the net impact on the U.S. economy of tariffs would be additional costs of \$322 million.

- We are also concerned about increased costs for working families from an increase in tariffs on water filters (HTS 84212100), air purifiers (HTS 84213980), scanners (HTS 84716080), flash drives (HTS 84717060), video projectors (HTS 85287110), handheld radios (HTS 85256010), portable generators (HTS 85021100), remote controls (HTS 85269250), vacuum sealers (HTS 84223091), ink cartridges (HTS 84439925), thermostats (HTS 9032100) and mini fridges (HTS 84186901).
- Tariffs will increase costs for U.S. consumer product companies, reducing their competitiveness and ability to hire American workers.

U.S. tariffs, together with certain Chinese retaliation, will disrupt global trade and supply chains, further damaging American businesses, workers, farmers, ranchers, and investors.

- U.S. exports of goods to China have grown by 86 percent over the last decade, while exports to the rest of the world have grown by only 21 percent. China's proposed retaliation threatens billions in losses for American workers, farmers, and manufacturers, who rely on the ability to export their crops and products to China for their livelihood.
- American farmers and ranchers have spent decades establishing relationships in China. Those relationships, and the exports they generate, are already being undermined by Chinese retaliation. In a trade war with China, American farmers are the first casualty. According to a study by Farmers for Free Trade, the tariff impacts for U.S. almond, walnut, pork, wine, cherry, and many other commodity producers—totaling \$2.6 billion in exports to China in 2017—resulting from China's retaliation against new U.S. steel and aluminum tariffs are significant. U.S. farmers and ranchers are also facing the possibility of more

expansive tariffs in response to the nearly \$50 billion in tariffs the Trump Administration has proposed to levy against Chinese imports.

- Products that have met rigorous quality control and compliance requirements to be a part of U.S. manufacturing supply chains cannot be easily replaced, particularly for specialized parts or for products for which global supply is already capacity constrained. Placing tariffs on those industrial parts for which non-Chinese alternatives are not available or feasible will simply drive up U.S. production costs and impair the competitiveness of U.S. businesses and their workers. Tariffs on critical manufactured inputs could even prompt businesses to locate production facilities outside the United States, undermining the U.S. economy, jobs, and exports, as well as the health of the U.S. supplier base.
- Because China is the second largest economy in the world and an important market for many U.S. businesses, these businesses have established wholly-owned facilities there, in part to more effectively penetrate the Chinese market. Putting tariffs on manufactured inputs made in those U.S.-owned facilities will principally hurt the affected U.S. businesses—as well as their U.S. facilities, workers, and suppliers, who rely on competitive access to them—while generating no meaningful leverage on China to reform its trade and investment policies.
- U.S. services exports to China surpassed \$50 billion for the first time in 2016, the most recent complete year of available data. China has committed to open certain areas of its services market, including financial services, to U.S. firms. Imposition of unilateral tariffs by the United States increases the possibility that retaliatory Chinese actions will limit the ability of U.S. service providers in liberalized areas to access this large and growing market.

Unilateral tariff strategies have no record of historical success and have always led to unintended consequences:

- President George W. Bush's tariffs on steel resulted in 200,000 job losses and \$4 billion in lost wages in 2002.
- President Obama's tariffs on tires imported from China resulted in 2,500 job losses and cost American consumers \$1.1 billion in 2011.
- The Smoot-Hawley Tariff Act of 1930 helped fuel the Great Depression, and President Nixon's 10 percent import surcharge contributed to the stagflation of the 1970s.
- New tariffs on steel and aluminum are projected to cost consumers \$3.2 billion per year and result in 18 job losses for every one job gained.

Imposition of tariffs will negate gains, at least in part, for American workers from U.S. tax reform and deregulation.

- Since President Trump's election, the U.S. economy has made tremendous progress.
- The proposed tariffs and the ensuing trade war will put at risk the economic momentum achieved through the Administration's tax and regulatory reforms, and will undermine the Administration's commitment to drive the U.S. economy to over 3 percent growth or continue to create jobs if we go down this path.

There are better alternatives to address China's policies and practices that would not have the same adverse impacts on U.S. consumers, businesses, and local communities or undermine the benefits of the tax reform. In particular, it is critically important that the Administration work constructively with like-minded partners to address common concerns with China's trade and investment policies. Imposition of

unilateral tariffs by the Administration would only serve to play into China's hands by splitting the United States from its allies, hindering joint action to effectively address shared challenges, and ensuring that non-U.S. companies fill the vacuum left by displaced American companies, farmers, and ranchers when China retaliates against U.S. tariffs. Notwithstanding frustration regarding China's tariff and non-tariff barriers, China is an important market for U.S. companies. American exports to China contribute to U.S. growth and jobs. The Administration has attempted to assure Americans that it has a strategy to resolve trade frictions with China without excessive collateral damage to U.S. economic interests. However, these assurances lack the coherence that would provide comfort to those businesses, farms, and workers whose livelihoods are being put at risk.

The U.S. Chamber supports the Trump Administration's focus on China's industrial policies and unfair trade practices, but tariffs are not the answer. We urge the Administration to work with the business community and like-minded allies to resolve the real concerns raised by China's policies and actions.