

May 9, 2018

Office of the United States Trade Representative  
600 17th Street NW  
Washington, DC 20508

RE: *Comments of Element Electronics Concerning Action Pursuant to Section 301 Investigation of China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*

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On behalf of Element Electronics and its nearly 200 factory workers in Winnsboro, South Carolina, I thank you for the opportunity to testify today.

Element Electronics is the sole US mass producer of LCD televisions.

Element Electronics supports free and fair trade that ensures a level playing field for American workers.

Unfortunately the current playing field is far from level.

Our current trade agreements provide significant advantages to imports over US production of TVs.

The normal duty rate on imports of finished televisions is 3.9% whereas the normal duty rate on imports of LCD panels (the critical input to make a TV) is 4.5% -- a classic tariff inversion.

To make matters worse, the duty on imports of finished televisions from Mexico, under NAFTA, is zero.

Thus, US duties incentivize moving TV production outside the US and favor Chinese and Mexican workers over Element's US workers.

Importantly, TVs produced in Mexico are produced using inputs sourced from China and other Asian countries -- it is simply an assembly location for purposes of avoiding duties that American companies pay.

The 301 has the potential to level the playing field for Element's workers.

Therefore, Element supports the inclusion of finished TVs (HTS 8528.72) in the scope of the 301.

Element also supports the exclusion of LCD panels used in the assembly of TVs (HTS 9013.80.90) from the list.

LCD panels are a critical input component necessary for the production of TVs in the US and there is no US production of these LCD panels.

The application of the 25% duty on finished TVs from China would address some of the tariff inversion.

However, the impact of imports directly from China is not the only problem that must be addressed to ensure increased US production of televisions.

The 301 must have strong anti-circumvention provisions to address evasion activities that have already begun.

Element has heard first-hand in the marketplace that Chinese producers have already begun to move components and subassemblies to places like Thailand, Vietnam and Mexico for the sole purpose of evading any duties imposed under the 301.

Chinese producers will easily evade any duties imposed under the 301 given the flexibility of the normal rules of origin that apply to televisions

The 301 would be a toothless tiger without protection against this circumvention.

The Administration can ensure an effective 301 remedy by imposing, for purposes of the 301 duties, a requirement that all imported finished TVs classified in HTS 8528.72 must undergo a tariff shift from any other tariff heading, except from subheading 9013.80 or any other good of heading 8529 in order to be exempt from the 301 duties.

The application of this rule would prevent Chinese producers from shifting production and exports to other countries for purposes of evading the 301 duties.

Recently, the National Retail Federation and the Consumer Technology Association released a study that inclusion of TVs would have a negative impact on the US economy.

This analysis is fundamentally flawed because it relies on false assumptions.

The study assumes that imports of TVs from China and Mexico are not substitutable. That is factually untrue.

The import data we provide in our written submission show that 84% of all TV imports from China and Mexico are concentrated in the same four HTS lines.

That overlap will grow if the 301 duties are imposed on imports from China but no anti-circumvention rules are also imposed.

Further, claims that US consumers will see significant price increases for TVs as a result of the 301 duties is not supported by the real world facts.

TVs produced in America by Element Electronics are currently sold at prices that are competitive with imports.

Thus, the 301 duties will provide a stronger market for American made TVs, produced by Element and hopefully new US producers, without any significant price impact.

The 301 remedy presents an opportunity to level the playing field for Element's workers in Winnsboro, SC.

But for this opportunity to be successful the 301 must:

- 1) impose the 25% duty on imports of finished TVs on the list;
- 2) maintain the exclusion from any 301 duty for LCD panels, and
- 3) impose strong anti-circumvention provisions to prevent Chinese producers from evading the 301 duties by moving assembly to other Southeast Asian countries and Mexico.

Thank you for the opportunity to testify and I would be happy to answer any questions.