UNITED STATES COUNCIL FOR INTERNATIONAL BUSINESS

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

Docket No. USTR-2018-0005

TESTIMONY

Eva Hampl, Senior Director, Investment, Trade and Financial Services
United States Council for International Business

May 16, 2018

The United States Council for International Business (USCIB) welcomes the opportunity to provide comments and recommendations on the proposed Section 301 tariffs. USCIB promotes open markets, competitiveness and innovation, sustainable development and corporate responsibility, supported by international engagement and regulatory coherence. Our members include top U.S.-based global companies and professional services firms from every sector of our economy, with operations in every region of the world. As the U.S. affiliate of the International Chamber of Commerce, the International Organization of Employers and the Business and Industry Advisory Committee to the OECD, USCIB has a unique global network through which it provides business views to policy makers and regulatory authorities worldwide, and works to facilitate international trade and investment.

We believe that the imposition of tariffs will not achieve the important goal of changing China's behavior in the space of emerging technologies and intellectual property rights. China's threat of retaliation further exacerbates uncertainties caused by this proposed action. Rather than create more opportunities for U.S. business, sweeping tariffs will stifle U.S. agriculture, goods, and services exports and raise costs for businesses and consumers.

To address these issues, a holistic structure is needed. USCIB applauds the Administration for also looking at alternative approaches, such as initiating a WTO dispute by requesting consultations

with the Government of China regarding certain specific aspects of China's technology regulations considered in the investigation. It is important for the Administration to address these issues with a broad view, working collectively with U.S. industry, Congress, and our trading partners, to adequately address China's unfair trade practices and get China to be WTO compliant. In addition to engaging the WTO process, this should include developing a strategy with clearly defined objectives, direct negotiating mechanism with the Chinese, targeted deliverables, and deadlines with measurable results. The Administration should also coordinate in various available forums with like-minded trading partners who are similarly afflicted by China's actions on intellectual property rights, forced technology transfer, and discriminatory industrial policies.

China can be a challenging market for U.S. companies to navigate. The ongoing intellectual property rights violations, forced technology transfer requirements, and state interventions harm U.S. companies, workers, consumers, and competitiveness. Made in China 2025 is certainly an indication that China plans on further advancing in developing their hi-tech industries, such as robotics, advanced information technology, aviation, and new energy vehicles, with the eventual goal of global dominance in those industries through uncompetitive means such as subsidies. While this unfair advantage to Chinese companies in this space is a legitimate threat to U.S. leadership in innovation and hi-tech, continued engagement in the Chinese market is also very important for U.S. companies in terms of their ability to be globally competitive.

If the government does proceed with the strategy of imposing tariffs, however, there are several important concerns we would like to raise, to alert the Administration to the consequences of moving forward on imposing tariffs on such a comprehensive list of products. In our written submission, we highlight specific products we recommend be taken off the list.

The proposed tariffs pose a unique challenge to industrial inputs, which represent over 80 percent of the proposed Section 301 tariffs. Tariffs on industrial goods are especially problematic because they represent not just a tax on U.S. consumers, as all tariffs do, but also represent a tax on U.S. manufacturers and workers, and on the products they export. Tariffs on aerospace, machinery and information technology (IT) parts and other advanced technologies can undermine the most competitive sectors of American manufacturing, driving up production costs in the United States,

impacting U.S. manufacturing employment, and making U.S. manufacturers less competitive against global rivals.

- Tariffs on industrial parts imported into the United States could even have the unintended consequence of prompting manufacturers to move final production outside of the United States.

To see how U.S. companies will be affected by the tariffs, it is important to look to how the supply chain functions. China is the second largest economy in the world and the largest manufacturing economy in the world. We cannot ignore that China may have some unique capabilities, at the product level, that U.S. businesses need to tap into in order to remain globally competitive. For many products or inputs, there is no feasible alternative to procuring from China. Hurting American exporters cannot be the outcome of a process designed to level the playing field in China.

- Sourcing from China may also be necessary for U.S. businesses in cases where alternative suppliers already face capacity constraints and cannot support new demand and are therefore unavailable.
- The Administration has stated its goal in drawing up this tariff list was to put the negative impact of tariffs on those Chinese businesses that have benefited from China's forced technology transfer and other unfair practices. But in a case where a U.S. business may in fact own the production facility in China where a particular product on the tariff list is made, putting tariffs on industrial products made at a U.S.-owned facility doesn't hurt Chinese businesses, it hurts that U.S. company as well as its U.S. workers and its U.S. suppliers who need those parts to continue making world-class manufactured goods in the United States.

Sourcing outside of China could also significantly affect production due to qualification or certification requirements.

- For industrial parts the process can be very complex. Qualifying to join a U.S. manufacturer's supply chain is a multi-step process that can take up to three years. That process can be even longer if the part requires Federal certification – e.g., from the FAA or FDA.

- In cases affected by those scenarios, if the Administration insists on imposing tariffs, the government must be prepared to defer the implementation of the tariff on that product. Otherwise, immediate imposition of the 25% tariff, before any alternative can be qualified, will simply be a direct hit to U.S. businesses' profitability and competitiveness. Without such an allowance, competitors in Europe, Japan and elsewhere will immediately gain a significant advantage in global markets.

Tariffs are a blunt tool with many unintended consequences on U.S. businesses. They will significantly impact U.S. companies' ability to export and create important jobs in the United States. They will also negatively impact U.S. customers, increasing competitiveness in the United States for foreign competitors. Most U.S. businesses hope these important issues can be resolved without having to resort to tariffs. Particularly where U.S. businesses can demonstrate that the imposition of a tariff on a specific product from China would disproportionately harm U.S. manufacturing competitiveness, and jobs and exports in the United States, the Administration must be prepared to amend its proposed tariff list, or delay the imposition of that tariff, to reflect that information.

The Administration's proposed tariff list was drawn up without significant input from the U.S. business or manufacturing community. The public comment process is the principal means to solicit information from U.S. businesses. USCIB members have worked hard to review the impact of these proposed tariffs on their own operations and we welcome the opportunity to provide this input. We urge the Administration to use this process to ensure that its actions in this China 301 process do not inadvertently harm some of the most competitive sectors of the U.S. economy, and the hundreds of thousands of American jobs that depend on them. Thank you for the opportunity to testify, and we look forward to continued engagement with the business community on these important issues.