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Testimony of John Constantine on behalf of Apex Tool Group
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My name is John Constantine, President of N.A. Hand Tools for Apex Tool Group. ATG is a $1.4b company that competes in the Hand and Power Tool markets- targeting Retail distribution and Industrial distribution. We employ 1,800 associates in the USA and 8,000 overall. We have 7 Manufacturing and Distribution facilities in the USA. We also have 100% owned facilities in China, Taiwan and other regions globally. Our products are sold through major retailers- such as Home Depot and Ace Hardware, as well as through large distributors- such as Fastenal and Grainger.

We believe that the proposed action under Section 301 erroneously includes our ratchets and related products- and thus the list of targeted products should be amended to exclude these items.

1. **These products have no impact on the Chinese Government related to their acts, policies and practices around intellectual property…**

   - The USTR intends to target industries that China could use to achieve its 2025 goals of global strength – i.e. Aerospace Equipment, High Tech Ships, New Materials and Medicine. These basic ratchets and drivers have no impact on Chinese efforts in those areas.

   - These products are not nearly in the realm of "cutting edge". Ratchets have been in existence for over 100 years- and have changed very little over that span. In fact many of the inventions that are still used in this very ratchet are from the 1950's and 1960's.

   - These items are quite common- available and owned by millions of households in America and millions of professional tool users.

- ATG owns the factories in China where these are produced- and has never been pressured or forced to transfer any data, information, technology or invention. We have never seen any drive towards China securing or understanding ATG Intellectual Property.

- Related- The Chinese Government would see this as a "low value" product. It is easy to make, and not consistent with any desire on their part to enter high-tech or more value added manufacturing. These items are unfairly classified as "Tool Holders"- as they are not remotely the sort of Tool Holder that Section 301 intends to protect.

2. **These proposed actions will have a negative impact on Apex Tool Group, its customers and the end users of the product…**

- There is little capacity to make the volume required for these goods as they are borderline "consumer products". Any capacity existing in the USA is far less than ATG and its customers would require.

- The cost difference between the USA and Asia for these products is at least 45%. Significant capacity would need to be added- and would still result in a much higher cost.

- These increases would likely create unit volume declines- causing us to examine our employment numbers in the USA. We see this "real time" in a separate, but related piece of our business. Our USA steel suppliers that supply steel to our USA plants (which make large storage containers) are passing on 29% increases to Apex since the announcement of the Section 232 Steel Tariff. This causes ATG to raise its prices on these containers, which drives down volume- and reduces our workforce. We worry the same dynamic will occur with the Tariffs we are discussing today.

- ATG cannot absorb the 25% additional tariff on top of the 29% price increase I just described and would need to submit at least a 25% price increase to its customers- and those customers would in turn need to pass a 25% price increase to the end user.

3. **In addition- the current tariff coding system oddly includes large tool sets as part of subheading 8466.10.01- and thus not simply an individual ratchet would be penalized- but a much larger Tool Set…**

- This set for example- has 268 pieces and less than 10 of those pieces are defined as an 8466 "Tool Holder". Yet the entire set is in danger of being assessed the 25% Tariff.

- This will create a major impact to the American consumer- taking the retail price of this set from roughly $150 to $225. A $75 increase to the consumer. This will drive down demand and impact large retailers as well as ATG.

- ATG appreciates the thoughtfulness of the USTR to examine what products may be impacted and hopes that this review process will ferret out anomalies such as ATG tools. The basic hand tool is not one of the products that should be included in the target list. Only because of an older tariff court case[1] are these low-tech products wrapped into this tariff provision.

- ATG agrees that something should be done to address any state-sponsored IPR theft, but the proposed action of including these products is the definition of an "unintended consequence"- and disproportionately negatively impacts American business and consumers.

In summary, we feel that these items are basic, common items and not nearly in the realm of products that are critical to USA manufacturing and USA competitiveness. Unlike many of the products in the Section 301 list- these specific hand tools and sets carry next to no strategic or national interest regarding intellectual property or manufacturing. In addition, the action would not create jobs in the USA- and in fact may cost jobs. And – the American consumer will pay significantly higher prices as a result. Thank You.

[1] *Continental Arms Corp. v. United States*, 65 Cust. Ct. 80 (1970).