May 9, 2018

Section 301 Committee
U.S. International Trade Commission (US ITC)
500 E Street SW
Washington, D.C. 20436

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

The Society of Chemical Manufacturers & Affiliates (SOCMA) appreciates the opportunity to comment on the Administration's proposed determination of action pursuant to Section 301 of the Trade Act of 1974.

SOCMA is the only U.S.-based trade association solely dedicated to the specialty and fine chemical industry – a $300 billion industry that is fueling the U.S. economy. Our members play an indispensable role in the global chemical supply chain, providing specialty chemicals to companies in markets ranging from aerospace and electronics to pharmaceuticals and agriculture.

SOCMA is concerned that the proposed additional duty of 25 percent on listed products from China could have a negative effect on US chemical manufacturing. The proposed US tariff list targets intermediate chemicals, some of which are manufactured exclusively in China. Thus, costs to specialty chemical manufacturers could escalate to levels that render members' domestic manufacturing uncompetitive and in other instances halt or greatly increase the cost of manufacturing for life-saving pharmaceuticals and other specialty chemicals in the United States.

SOCMA agrees that the Chinese intellectual property (IP) regime restricts U.S. commerce. In fact, most of our sectors are driven by IP. Nevertheless, SOCMA favors resolution through constructive negotiation before imposing broad based tariffs that will undoubtedly offset positive impacts from the American shale gas revolution and 2017 tax relief legislation.

Altering specialty chemical supply chains is exceedingly difficult because specialty chemicals have purity and performance demands that require particularized expertise and infrastructure to manufacture. Therefore, alternative sources are finite. In addition, modifying sourcing chains often requires regulatory approval and so the US chemical industry stands to bear a disproportionate burden if the proposed Section 301 US tariffs and Chinese retaliatory tariffs are implemented.

Punitive duties also invite retaliation. 40% of the Chinese retaliatory list targets chemicals and plastics, which compounds the threat to SOCMA-member livelihood exponentially.

These duties, if applied, would cause disproportionate economic harm to U.S. interests, including small and medium-sized specialty chemical manufacturers. Therefore, if the 301 list is implemented, before such implementation, SOCMA urges USTR to work with USITC and US Customs, to identify the individual chemical products contained in many of the listed basket-categories, and then reach out to the consumers of such products to be sure that there are reasonable alternatives to China. It is a very difficult task, especially for many of the smaller companies that SOCMA represents, to cross-reference HTS numbers on the 301 list with chemicals that companies are purchasing.

I. The US specialty chemical industry is vital to the economy and downstream manufacturing sectors

The US chemical industry supports more than 25 percent of U.S. gross domestic product (GDP). 30 percent of the more than 800,000 jobs in the U.S. chemical industry are export dependent. While specialty chemicals are a sector of this vital industry, our members make the products that improve downstream manufacturing, allowing for boundless investment opportunities. In fact, in 2016 and 2017, the chemical industry accounted for almost half of all construction spending in domestic manufacturing.

These favorable investment conditions stem from affordable natural gas – the industry's principal feedstock. The U.S. shale gas revolution is one of the most important energy revolutions in decades, and foreign investment realizes this potential. In fact, 60 percent of the reported $194 billion investment in the U.S. chemical industry in the past eight years has come from foreign direct investment, demonstrating U.S. chemical manufacturers' potential to compete in the global marketplace. Combined with 2017 tax reform legislation, the US chemical industry has the potential to drive the US economy. China realizes this and so has threatened to retaliate against this value-add industry accordingly.

Chinese retaliation and threatened retaliation by other WTO members is already causing problems. Markets, and particularly international markets, disfavor uncertainty. Tariffs inject uncertainty and will continue to shift sourcing away from the U.S. Given the chemical industry's heterogeneity, we urge the Administration to consider the compound effects to the specialty chemical industry and its many downstream manufacturing segments.

II. Proposed US tariffs on Chinese goods

a. Various listed pharmaceutical intermediate chemicals are produced exclusively in China

While roughly 5% of the 1,333 products on the proposed US tariff list implicate chemicals, some of those products are produced exclusively in China. Most notably, those products include specialty and fine chemicals used as starting materials in the pharmaceutical manufacturing sector.

Approximately 90% of all prescriptions written are for generic drugs. For years, downward pricing pressure on generic drugs has precipitated a move to outsource production to other parts of the globe where labor savings can be achieved. India and China have been the primary beneficiary of this movement although quality problems at facilities in India have led to a greater reliance on active pharmaceutical ingredient (API) manufacturing in China. In many cases, Chinese manufacturers have become the sole global supplier of many APIs used in over-the-counter (OTC) drug products, such as headache and cough and cold remedies.

b. Modifying specialty chemical sourcing chains is particularly burdensome

As before-mentioned, for chemical manufacturers, finding new suppliers can be a challenge, but finding suppliers and qualifying the new supplier facility and raw materials in the pharmaceutical sector in particular can also be very expensive and time consuming. The highly regulated nature of this industry requires that all such changes in suppliers receive prior approval from the FDA and other world regulators. Revising or initiating new Drug Master Files and amending Abbreviated New Drug Applications to document these changes can easily cost hundreds of thousands of dollars and take months to years to accomplish. New quality agreements with new suppliers will need to be put into place. FDA reviews, approvals, and inspections will also add to the time it takes to shift production to new suppliers. The time required to make these changes will almost certainly lead to short-term and possibly long-term drug shortages for some of the drugs impacted by the proposed tariffs.

III. Chinese tariffs on US goods

a. 40 percent of China's proposed retaliatory list targets chemicals

If the Administration moves forward with implementation and additional tariffs, China will undoubtedly retaliate proportionately – this is SOCMA's foremost concern. As noted above, 40 percent of the Chinese 301 retaliatory list targets chemicals. Along with specialty chemicals, China's proposed retaliatory list essentially includes basic chemicals, various finished forms of plastics, and plastic resins.

If tariffs are implemented or uncertainty continues, there will be less demand for U.S.-made chemicals. American chemical manufacturers are the top exporting industry in the U.S., accounting for $181 billion in 2017, which amounted to 14 percent of all U.S. exports. China is a major export market for SOCMA members and so SOCMA has considerable interest in the bilateral relationship between the world's two largest economies.

Based on the proposed retaliatory list, China clearly recognizes the US competitive advantage and seeks limit U.S. chemical exports. Higher tariffs in China as a result of retaliation will shut out U.S. chemicals exports to the benefit of competitors in China, Europe, and the Middle East.

While the proposed tariffs (including 232 steel and aluminum) could prop of certain domestic industries, the tariffs would net job loss, having real implications for real jobs in local economies. SOCMA therefore supports constructive negotiation that allows for investment, long-term commitments, and a high-value-add workforce.

IV. Practical recommendations for alternatives to the proposed Section 301 tariff list

SOCMA urges the Administration to work with industry and World Trade Organization (WTO) trading partners to coordinate non-tariff strategies to address China's IP theft, forced technology transfers, and industrial policies that restrict U.S. commerce.

Unilateral actions typically create less market access, and therefore higher costs to downstream manufacturers and consumers. Presently, implementation and retaliation would disproportionately burden specialty chemical manufacturers because (1) alternative sources for intermediate chemicals are finite and (2) supply chain modification is particularly onerous. Therefore, SOCMA favors China and the U.S. working together to cut costs to the chemicals trade – an industry that is particularly apt to grow economies and reestablish trust in our societies.

Again, if the 301 list is implemented, before such implementation, SOCMA again urges USTR to work with USITC and US Customs, to identify the individual chemical products contained in many of the listed basket-categories, and then reach out to the consumers of such products to be sure that there are reasonable alternatives to China. It is a very difficult task, especially for many of the smaller companies that SOCMA represents, to cross-reference HTS numbers on the 301 list with chemicals that companies are purchasing.

Thank you again for the opportunity to comment on the Administration's proposed determination of action pursuant to Section 301 of the Trade Act of 1974.

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