

## **FOUR-YEAR REVIEW DOCKET<sup>1</sup>**

**Docket Title:** Request for Comments: Four-Year Review of Actions in Sec. 301 Inv. of China

### **Docket**

Request for Comments in Four-Year Review of Actions Taken in the Section 301 Investigation: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

**Docket ID:** USTR-2022-0014

USTR is conducting a four-year review of the July 6, 2018 action, as modified, and the August 23, 2018 action, as modified, in the section 301 investigation of China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation. As part of the review, USTR is seeking public comments on the effectiveness of the actions in achieving the objectives of the investigation, other actions that could be taken, and the effects of such actions on the United States economy, including consumers.

If you have any questions or concerns regarding your submission, please refer to the Frequently Asked Questions page or call the 301 hotline at 202-395-5725.

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## **INTRODUCTION**

### **Explanatory Note:**

Questions regarding "Actions" refer to the July 6, 2018 action (List 1) and the August 23, 2018 action (List 2) as modified by supplemental lists (Lists 3 and 4) and temporary product exclusions.

The questions on this docket are separated into three sections and invite views concerning the Section 301 actions at increasing levels of specificity. Section A invites views at an economy-wide level; Section B invites views at a sector/industry level; and Section C invites views at the level of tariff headings. Submitters should use one or more of these sections based on their views.

For example, if a submitter has comments only at an economy-wide level, the submitter would address only questions in Section A. Or, if a submitter has comments only at the level of tariff headings, the submitter would address only the questions in Section C. Some submitters may wish to address the actions at different levels of specificity; these submitters would fill out more than one section.

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<sup>1</sup> These docket questions are being posted on November 1, in advance of the scheduled opening of the docket on November 15, in order to provide advance notice to submitters. The questions as presented on the docket may be clarified or amended.

For Section B (Sector/Industry-Level comments), submitters may define the sector/industry in accordance with the scope of their views. For example, a submitter may wish to comment on a specific industrial sector (such as steel manufacturing), or may wish to choose categories based on product use (such as home furnishings).

**Submitting Business Confidential Information:**

Certain questions will allow for the submission of Business Confidential Information (BCI). If you request business confidential treatment, you must certify the information is business confidential, disclosure of the information would endanger trade secrets or profitability, and such information is not generally available. For questions you are requesting confidential treatment, you must also provide a nonconfidential (Public) version in the box provided. Confidential responses should have BCI clearly marked with double brackets [[ BCI ]]. Nonconfidential (Public) versions should have BCI removed from the double brackets [[ ]].

**Submitting Attachments:**

Attachments can be submitted at the end of the docket. Attachments may supplement the responses you have submitted in the boxes provided for each question, but should not replace those responses. If you provide an attachment that contains BCI, you must also provide a nonconfidential (Public) version.

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**SUBMITTER INFORMATION**

1. Contact Information

- Organization:
- First Name:
- Last Name:
- Email:
- Phone number:
- Third Party Information:
  - Third Party Organization Type:
  - Third Party Firm; Association Name:
  - Third Party Representative:
  - Third Party Email Address:

2. Does your business meet the size standards for a U.S. small business as established by the Small Business Administration?

3. Please report the number of employees your business employs in the United States.

## QUESTIONS

### A. Effectiveness of the Actions & Economy-wide Comments

In a notice published on April 6, 2018, the U.S. Trade Representative determined that acts, policies, and practices of the Government of China related to technology transfer, intellectual property, and innovation are unreasonable or discriminatory, and burden or restrict U.S. commerce, and are thus actionable under section 301(b) of the Trade Act. *See* [83 FR 14906](#). In particular, the U.S. Trade Representative determined:

1. China uses foreign ownership restrictions, such as joint venture requirements and foreign equity limitations, and various administrative review and licensing processes, to require or pressure technology transfer from U.S. companies.
2. China's regime of technology regulations forces U.S. companies seeking to license technologies to Chinese entities to do so on non-market-based terms that favor Chinese recipients.
3. China directs and unfairly facilitates the systematic investment in, and acquisition of, U.S. companies and assets by Chinese companies to obtain cutting-edge technologies and intellectual property and generate the transfer of technology to Chinese companies.
4. China conducts and supports unauthorized intrusions into, and theft from, the computer networks of U.S. companies to access their sensitive commercial information and trade secrets.

In subsequent notices, the U.S. Trade Representative determined to take actions addressed to findings 1,3, and 4; finding 2 is addressed through WTO dispute settlement.

1. Do you have views regarding the actions at an **economy-wide level**? (Dropdown)

[If "No" is selected, no additional questions under this section](#)

2. If you have views on the effectiveness of the actions in obtaining the elimination of China's acts, policies, and practices related to technology transfer, intellectual property and innovation, please discuss below.

3. If you have views on changes in China's acts, policies, and practices related to technology transfer, intellectual property and innovation since 2018, please discuss below.

4. Please discuss the role of the actions in causing any such change.

5. If you have views on whether the actions counteract China's acts, policies, and practices related to technology transfer, intellectual property and innovation, please discuss below.

6. If you have views on how the actions taken in the investigation could be modified to make them more effective in obtaining the elimination of or in counteracting China's acts, policies, and practices related to technology transfer, intellectual property, and innovation, please discuss below.

7. If you have views on any other actions that could be taken under Section 301 that would be more effective in obtaining the elimination of or in counteracting China's acts, policies, and practices related to technology transfer, intellectual property, and innovation, please discuss below.

8. If you have views on the economy-wide effects of the actions on the U.S. economy (including consumers), or on the economy-wide effects of other actions that could be taken under Section 301, please discuss below or in response to the following, more specific questions.

- (a). The economy-wide effects of the actions or other possible actions on domestic manufacturing, including in terms of capital investments, domestic capacity and production levels, industry concentration, and profits;

- (b). The economy-wide effects of the actions or other possible actions on U.S. technology, including in terms of U.S. technological leadership and U.S. technological development;

- (c). The economy-wide effects of the actions or other possible actions on U.S. workers, including with respect to employment and wages;

(d). The economy-wide effects of the actions or other possible actions on U.S. small businesses;

(e). The economy-wide effects of the actions or other possible actions on U.S. supply chain resilience or the goals of U.S. critical supply chains outlined in Executive Order 14017 and in subsequent reports and findings;

(f). The economy-wide effects of the actions or other possible actions on U.S. consumers, including with respect to prices and product availability.

**B. Sector/Industry-Specific Comments**

9. Do you have views regarding a specific sector or industry? (Dropdown)

[If "No" is selected, no additional question under this section](#)

10. Please describe the sector or industry of the U.S. economy upon which you wish to comment. Additional sectors or industries can be entered at the end of this section.

11. If you are aware of the primary North American Industry Classification System (NAICS) code associated with the sector you wish to comment on, please provide below. Please provide a 3- to 6-digit code. If unknown, indicate unknown. For more information on NAICS codes, see <https://www.census.gov/naics/>.

For the specific **sector or industry identified**, please address:

12. The extent to which goods within the sector or industry are or are not subject to the actions.

13. Whether the actions – as applicable to goods within the sector or industry – are effective in obtaining the elimination of or in counteracting China’s acts, policies, and practices related to technology transfer, intellectual property, and innovation?

14. Whether other actions that could be taken under Section 301 – as applicable to goods within the sector or industry – would be effective in obtaining the elimination of or in counteracting China’s acts, policies, and practices related to technology transfer, intellectual property, and innovation?

15. The effects of the actions, or other actions that could be taken under Section 301, on the industry or sector, including effects on consumers of goods within the industry or sector. Your response to this question may consist of, or be supplemented by, the more specific questions below.

- (a). The effects of the actions or other actions that could be taken on domestic manufacturing within the sector or industry, including in terms of capital investments, capacity and production levels, industry concentration, and profits? To the extent possible, please quantify any changes.

In addition to a non-confidential (Public) response, commenters may provide a confidential (BCI) response. BCI must be clearly marked with double brackets [[ ]]. In the non-confidential response above, BCI must be removed from the double brackets [[ ]].

- (b). The effect of the actions or other actions that could be taken on U.S. workers within the sector or industry, including with respect to the level of employment and wages? To the extent possible, please quantify any impacts.

In addition to a non-confidential (Public) response, commenters may provide a confidential (BCI) response. BCI must be clearly marked with double brackets [[ ]]. In the non-confidential response above, BCI must be removed from the double brackets [[ ]].

- (c). The effect of the actions or other actions that could be taken on U.S. small businesses within the sector or industry?

In addition to a non-confidential (Public) response, commenters may provide a confidential (BCI) response. BCI must be clearly marked with double brackets [[ ]]. In the non-confidential response above, BCI must be removed from the double brackets [[ ]].

(d). The effect of the actions or other actions that could be taken in terms of shifting supply chains for the sector or industry away from China?

In addition to a non-confidential (Public) response, commenters may provide a confidential (BCI) response. BCI must be clearly marked with double brackets [[ ]]. In the non-confidential response above, BCI must be removed from the double brackets [[ ]].

(e). The effect of the actions or other actions that could be taken on supply chain resilience within the sector or industry, including inventory practices and lead times for upstream intermediate inputs and capital equipment?

In addition to a non-confidential (Public) response, commenters may provide a confidential (BCI) response. BCI must be clearly marked with double brackets [[ ]]. In the non-confidential response above, BCI must be removed from the double brackets [[ ]].

(f). The effects of the actions or other possible actions on U.S. supply chain resilience or the goals of U.S. critical supply chains outlined in Executive Order 14017 and in subsequent reports and findings?

(g). The effects of the actions or other actions that could be taken on consumers of goods within the industry or sector, including with respect to prices and product availability?

In addition to a non-confidential (Public) response, commenters may provide a confidential (BCI) response. BCI must be clearly marked with double brackets [[ ]]. In the non-confidential response above, BCI must be removed from the double brackets [[ ]].

16. I certify that the information I am requesting confidential treatment for is business confidential, disclosure of the information would endanger trade secrets or profitability, and such information is not generally available. This information is contained in double brackets [[ ]], I have provided non-confidential (Public) responses with BCI removed from the double brackets [[ ]]. (Dropdown)

17. Do you have additional sectors or industries to comment on? (Dropdown)

### C. Comments on Tariff Headings

The actions apply additional duties to goods falling under 10,351 8-digit tariff codes and 57 10-digit tariff codes of the current Harmonized Tariff Schedule of the United States (HTSUS). Because the actions apply to some goods at the 10-digit level, for certain 8-digit tariff codes only a subset of 10-digit tariff codes are subject to additional duties. The questions under parts (a) and (b) require the identification of the relevant tariff code (8-digit or 10-digit) subject to the actions. Part (c) requires the identification of specific tariff codes, either at the 10-digit level or 8-digit level, for goods not currently covered by the action.

For help finding the tariff code for the product you wish to comment on, see <http://hts.usitc.gov>

#### a. Comments on Tariff Headings Currently Covered by the Actions

18. Do you have views on a tariff heading currently covered by the actions?

If “No” is selected, move to part (b)

Please provide the current tariff code covering goods that you wish to comment on. You must enter the relevant tariff code (8-digit or 10-digit) that is subject to the action. For most goods, additional duties have been applied at the 8-digit level. Additional tariff codes can be entered after completing the questions for each tariff code.

[Enter Code](#)

19. Is your comment that the specific tariff line should be removed or that it should remain covered by the actions? (Dropdown)

20. For the tariff code provided, please explain why maintaining the current additional duties, including the current rate of duties, would or would not be effective in obtaining the elimination of or in counteracting China’s acts, policies, and practices related to technology transfer, intellectual property and innovation.

21. Have additional duties on goods covered by this tariff code impacted the U.S. economy, including consumers? Please explain and respond to more specific questions below.

(a). Have additional duties on products covered by this tariff code led to changes in domestic manufacturing of the products or downstream products, including in terms of

capital investments, capacity and production levels, industry concentration, and profits? (Dropdown)

To the extent possible, please quantify any changes.

In addition to a non-confidential (Public) response, commenters may provide a confidential (BCI) response. BCI must be clearly marked with double brackets [[ ]]. In the non-confidential response above, BCI must be removed from the double brackets [[ ]].

(b). Have additional duties on goods covered by this tariff code impacted U.S. workers, including with respect to the level of employment and wages? (Dropdown)

In addition to a non-confidential (Public) response, commenters may provide a confidential (BCI) response. BCI must be clearly marked with double brackets [[ ]]. In the non-confidential response above, BCI must be removed from the double brackets [[ ]].

(c). Have additional duties on goods covered by this tariff code impacted U.S. small businesses? (Dropdown)

In addition to a non-confidential (Public) response, commenters may provide a confidential (BCI) response. BCI must be clearly marked with double brackets [[ ]]. In the non-confidential response above, BCI must be removed from the double brackets [[ ]].

(d). Have additional duties on goods covered by this tariff code impacted lead times or changed inventory practices for the products or downstream products? (Dropdown)

In addition to a non-confidential (Public) response, commenters may provide a confidential (BCI) response. BCI must be clearly marked with double brackets [[ ]]. In the non-confidential response above, BCI must be removed from the double brackets [[ ]].

(e). Have additional duties on goods covered by this tariff code resulted in shifts in U.S. supply chains away from China and to the United States or third countries? (Dropdown)

If the response is yes:

(1). Would removing the tariff code impact shifts in U.S. supply chains away from China and to the United States or third countries? (Dropdown)

Please explain.

In addition to a non-confidential (Public) response, commenters may provide a confidential (BCI) response. BCI must be clearly marked with double brackets [[ ]]. In the non-confidential response above, BCI must be removed from the double brackets [[ ]].

(f). Have additional duties on the goods covered by this tariff code helped achieve goals pertaining to U.S. critical supply chains outlined in Executive Order 14017? (Dropdown)

Please explain.

g. Are the goods covered by this tariff code inputs used for additional manufacturing in the U.S.? (Dropdown)

Please explain.

If the response is yes:

(1). Are additional duties on the inputs higher than additional duties on the downstream product(s) or finished good(s) incorporating those inputs (“tariff inversion”)? (Dropdown)

Please explain.

If the response is yes:

(2). Please identify the tariff code the downstream product(s) or finished good(s) are imported under. If unknown, enter “unknown”.

(3). Please provide a description of the downstream product or finished good.

(h). Have additional duties on goods covered by this tariff code impacted U.S. consumers, including with respect to prices and product availability? (Dropdown)

Please explain.

In addition to a non-confidential (Public) response, commenters may provide a confidential (BCI) response. BCI must be clearly marked with double brackets [[ ]]. In the non-confidential response above, BCI must be removed from the double brackets [[ ]].

22. I certify that the information I am requesting confidential treatment for is business confidential, disclosure of the information would endanger trade secrets or profitability, and such information is not generally available. Additionally, BCI is contained in double

brackets [[ ]] and I have provided non-confidential (Public) responses with BCI removed from the double brackets [[ ]]. (Dropdown)

23. Do you have additional tariff codes to comment on? (Dropdown)

**b. Comments on Adding Tariff Headings Not Currently Covered by the Actions**

24. Do you have views on modifying the actions to include **additional** goods not currently covered by the actions? (Dropdown)

[If “no” is selected, move to attachments](#)

Please provide the tariff code covering goods that you wish to comment on. You must enter a valid tariff code not currently covered by the actions. If you encounter an issue identifying a specific tariff code, please refer to the introduction section for more information. Additional tariff codes can be entered after completing the questions for each tariff code. (Required)

**Enter Code:**

25. For the tariff code provided, please explain how the addition of the tariff code would make the actions more effective in obtaining the elimination of or in counteracting China’s acts, policies, and practices related to technology transfer, intellectual property, and innovation.

26. Would additional duties on goods covered by this tariff code impact the U.S. economy, including U.S. consumers? Please explain and respond to more specific questions below.

(a). Would additional duties on goods covered by this tariff code impact domestic manufacturing of the goods or downstream products, including in terms of capital investments, capacity and production levels, industry concentration, and profits? (Dropdown)

In addition to a non-confidential (Public) response, commenters may provide a confidential (BCI) response. BCI must be clearly marked with double brackets [[ ]]. In the non-confidential response above, BCI must be removed from the double brackets [[ ]].

(b). Would additional duties on goods covered by this tariff code impact U.S. workers, including with respect to the level of employment and wages? (Dropdown)

To the extent possible, please quantify the impact.

In addition to a non-confidential (Public) response, commenters may provide a confidential (BCI) response. BCI must be clearly marked with double brackets [[ ]]. In the non-confidential response above, BCI must be removed from the double brackets [[ ]].

(c). Would additional duties on goods covered by this tariff code impact U.S. small businesses? (Dropdown)

Please explain.

In addition to a non-confidential (Public) response, commenters may provide a confidential (BCI) response. BCI must be clearly marked with double brackets [[ ]]. In the non-confidential response above, BCI must be removed from the double brackets [[ ]].

(d). Have additional duties on goods covered by this tariff code impacted lead times or changed inventory practices for the products or downstream products? (Dropdown)

Please explain.

In addition to a non-confidential (Public) response, commenters may provide a confidential (BCI) response. BCI must be clearly marked with double brackets [[ ]]. In the non-confidential response above, BCI must be removed from the double brackets [[ ]].

(e). Would additional duties on goods covered by this tariff code likely result in shifts in U.S. supply chains away from China and to the United States or third countries? (Dropdown)

Please explain.

In addition to a non-confidential (Public) response, commenters may provide a confidential (BCI) response. BCI must be clearly marked with double brackets [[ ]]. In the non-confidential response above, BCI must be removed from the double brackets [[ ]].

(f). Would additional duties on goods covered by this tariff code help achieve goals pertaining to U.S. critical supply chains outlined in Executive Order 14017? (Dropdown)

Please explain.

(g). Are the goods covered by this tariff code inputs used for additional manufacturing in the U.S.? (Dropdown)

Please explain.

(h). Are additional duties on the inputs higher than the additional duties on the downstream product(s) or finished good(s) incorporating those inputs? (Dropdown)

Please explain.

If the response is yes for question 26H, questions 26H(1) and 26H(2) appear.

(1). Please identify the tariff code the downstream product(s) or finished good(s) are imported under. If unknown, enter "unknown".

(2). Please provide a description of the downstream product or finished good.

(i). Would additional duties on goods covered by this tariff code impact U.S. consumers including with respect to prices and product availability? (Dropdown)

Please explain.

In addition to a non-confidential (Public) response, commenters may provide a confidential (BCI) response. BCI must be clearly marked with double brackets [[ ]]. In the non-confidential response above, BCI must be removed from the double brackets [[ ]].

27. I certify that the information I am requesting confidential treatment for is business confidential, disclosure of the information would endanger trade secrets or profitability, and such information is not generally available. Additionally, BCI is contained in double brackets [[ ]] and I have provided non-confidential (Public) responses with BCI removed from the double brackets [[ ]]. (Dropdown)

28. Do you have additional tariff codes to comment on? (Dropdown)

**D. Attachments**

Attachments may supplement the responses you have submitted in the boxes provided for each question, but should not replace those responses.

**Public Attachment (to upload)**

**BCI Attachment (to upload)**

I certify the information I am requesting confidential treatment for is business confidential, disclosure of the information would endanger trade secrets or profitability, and such information is not generally available. Additionally, BCI is contained in double brackets [[ ]] and I have provided a non-confidential (Public) attachment with BCI removed from the double brackets [[ ]]. (Dropdown)