Testimony in response to the proposed action pursuant to the Section 301 investigation of China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation, Docket number USTR-2018-0018

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July 24, 2018

On behalf of the National Foreign Trade Council, thank you for the opportunity to testify on the Administration's proposed action pursuant to Section 301 investigation.

About NFTC

NFTC is dedicated to making America more successful in the global economy by ensuring the adoption of competitive tax and trade policies, strengthening the global rules-based trading system and opening foreign markets to U.S. products and services. The Council's membership spans the breadth of the national economy. It includes sectors such as energy products, aerospace, capital goods, transportation, consumer goods, technology, healthcare products, services, e-commerce and retail.

Our companies account for more than $3 trillion in total sales worldwide, employ over five million Americans and produce a huge share of our nation's total exports. We and our members have significant interests in ensuring a healthy U.S. economy and promoting America's global leadership.

Effects of imposing U.S. duties on China's behavior

NFTC and its member companies continue to have significant concerns about Chinese policies and practices. However, we believe that imposing new duties on the subheadings listed in Annex C would not be effective in changing Beijing's behavior. China has demonstrated its willingness to withstand and retaliate against U.S. tariffs, and we do not expect the additional duties on $16 billion under this process to do anything to change the Chinese Government's practices or behavior.

Furthermore, the Administration should not expect that additional U.S. tariffs, whether on an additional $200 billion worth of goods that is the subject of a separate USTR process[1]

[1] Request for Comments Concerning Proposed Modification of Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation by the Office of the United States Trade Representative, Federal Register Docket Number USTR-2018-0026, 17 July 2018, available at: https://www.federalregister.gov/documents/2018/07/17/2018-15090/request-for-comments-concerning-proposed-modification-of-action-pursuant-to-section-301-chinas-acts

or on an additional $300 billion worth of goods contemplated by the President,[2] would be effective in changing China's behavior or practices. We strongly believe that the United States is painting itself into a corner with a policy of escalating unilateral tariffs that will be wholly ineffective in changing China's behavior and at the same time will have a negative impact on the U.S. economy.

Section 301 authority was never intended to result in the United States constructing higher trade barriers. The goal of the current Section 301 investigation should be to bring China to the negotiating table and achieve an agreement to change their objectionable practices and policies. Imposing a series of escalating, unilateral tariffs on China is not likely to achieve that objective.

The best chance of success would be a scenario in which the United States works with its allies and major trading partners to apply pressure jointly on China to reform its practices and policies.

Harm to U.S. interests from "Annex C" tariffs

Broadly, imposing additional duties on all of the products listed in Annex C of the June 20 Federal Register notice will raise costs and harm U.S. competitiveness.

We are concerned that the inclusion of the products on the Annex C list that USTR released relevant to this hearing would cause disproportionate economic harm to U.S. interests by undermining the economic competitiveness of American businesses and harming consumers and working families.

Based on consultations with our member companies, our concerns involve products that enter under HTSUS Subheadings including but not limited to the following –

3916.90.30	Monofilament, including for 3D printing
7308.90.95	Gazebo/shed in the box, dog kennels and outdoor cages
8419.89.95	Machinery designed for cooling, including for CPUs
8424.89.90	Fog Machines
8432.29.00	Gardening equipment, including cultivators, weeders, and hoes
8465.95.00	Drilling or mortising machines
8486.20.00	Machines and apparatus for the manufacture of semiconductor devices or of electronic integrated circuits;
8486.90.00	Parts and accessories of the machines and apparatus for the manufacture of semiconductor devices, electronic integrated circuits and flat panels;
8501.31.80	Solar pack power kit
8536.50.70	Electronic AC switches, including smart switches
8536.70.00	Connectors for optical fibers, optical fiber bundles or cables
8541.10.00	Diodes, other than photosensitive or light-emitting diodes

[2] Trump says U.S. tariffs could be applied to Chinese goods worth $500 billion, David Lawder and Elias Glenn, Reuters, 4 July 2018, available at: https://www.reuters.com/article/us-usa-trade-china/trump-says-u-s-tariffs-could-be-applied-to-chinese-goods-worth-500-billion-idUSKBN1JV063

8541.40.60	Diodes for semiconductor devices, other than light-emitting diodes
8542.31.00	Electronic integrated circuits: processors and controllers
8542.32.00	Electronic integrated circuits: memories
8542.33.00	Electronic integrated circuits: amplifiers
8542.39.00	Electronic integrated circuits: other
8542.90.00	Parts of electronic integrated circuits and microassemblies
8543.70.45	Motion sensors, including those used in home security systems
8543.70.99	Electric machine apparatus (includes strobe lights, Christmas lights, remote controls, and stereo equipment)
8711.60.00	Electric motorcycles, including mopeds and motobikes, and hoverboards
8711.90.01	Motorcycles (including mopeds) and cycles fitted with an auxiliary motor, with or without side-cars; side-cars: Other.
9025.19.80	Meat thermometers/smart thermometers
9029.20.40	Pulse Oximeters

Harm to consumers and working families

Consumers and working families are likely to face higher costs for products from blood oxygen monitors (9029.20.40) to television remote controls and Christmas lights (8543.70.99) to sheds and gazebos (7308.90.95). Since many of these items, such as Christmas lights, are sold at low-margins, we would expect companies to pass along cost increases to consumers, though it is difficult to predict with certainty how much of the cost increase would be passed through.

I want to focus in particular on the negative impact to consumers of placing a 25 percent tariff on thermometers (9025.19.80) – including those meant for everyday household use as well as those found in connected home systems, and motion sensors (8543.70.45) – including those used in home security systems, which will negatively impact consumers and harm adoption of connected home technologies.

Thermometers

The thermometer tariff line (9025.19.80) covers a broad range of consumer goods. Tariffs on this line will negatively affect nearly every American household. Common consumer products covered include outdoor thermometers, window thermometers, kitchen temperature tools like meat thermometers, digital thermometers that parents use for their children, and temperature sensors that are used as part of household thermostat systems.

In particular, temperature sensors are a key part of household thermostat systems. Americans purchase 17 million thermostats each year to help manage energy costs, and thermostats are already subject to a 25 percent tariff, which took effect on July 6. Tariffs will hurt the US consumer by imposing a double burden of higher prices on thermostat systems, a consumer necessity, and higher energy bills because consumers will be less able to afford energy-efficient smart thermostat systems.

Motion Sensors in Security Systems

Motion sensors are a key input to home security systems, a consumer product that reached $4.69 billion in US sales in 2017.[3] The proposed tariffs on motion sensors (8543.70.45) cover a core part of home security systems, which millions of American households purchase to stay safe.

Tariffs on motion sensors will punish the U.S. consumer, imposing a double burden of higher prices on a consumer necessity and will likely lead to the diminished adoption of technologically-advanced home security systems.

Tariffs on consumer goods are contrary to USTR's aim to avoid goods commonly purchased by American consumers

Tariffs on thermometers, motion sensors, smart electric switches, children's straws and stickers, and other consumer goods are expressly contrary to USTR's stated aim of avoiding placing tariffs on goods that are "commonly purchased by American consumers."[4]

In addition, these consumer products are not targeted in China's Made in China 2025 plan, and they are not part of China's core industrialization strategy. These products are used by millions of American families.

Harm to U.S. businesses and economic competitiveness

We have heard from our members that proposed tariffs on inputs they use for manufacturing will negatively impact their competitiveness. Tariff lines of particular concern are noted in the list above and include electronic integrated circuits (8542.31.00, 8542.32.00, 8542.33.00, 8542.39.00), machines and apparatus for the manufacture of semiconductor devices or of electronic integrated circuits (8486.20.00) and parts and accessories of the machines and apparatus for the manufacture of semiconductor devices, electronic integrated circuits and flat panels (8486.90.00).

Our member companies import these components, which are then variously integrated into finished machinery and products for domestic use and export. Tariffs on these subheadings in particular will cause disproportionate economic harm to the competitiveness of U.S. businesses, raising costs and creating a competitive disadvantage vis-à-vis foreign competitors. Tariffs on these products would also raise costs for companies providing cloud computing and cloud computing-enabled services, as they will raise the costs of servers assembled in the United States that provide computing power in U.S. data centers.

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[3] Revenue of the global smart home security market from 2015 to 2021 (in billion U.S. dollars), statista, available at: https://www.statista.com/statistics/645392/smart-home-security-revenue-worldwide/

[4] USTR Issues Tariffs on Chinese Products in Response to Unfair Trade Practices, Office of the United States Trade Representative, June 2018, available at: https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/june/ustr-issues-tariffs-chinese-products

In addition, connectors for optical fibers, optical fiber bundles or cables (8536.70.00) are used in telecommunications networks and microwave systems. Tariffs on these products would raise costs for U.S. telecom equipment manufacturers and increases costs for telecommunications companies, including rural operators.

Tariffs on motion sensors (8543.70.45) will hurt the small business retailers and small business installers who sell and install home security systems by increasing prices and depressing demand, and further slow the adoption of advanced connected home technologies.

Tariffs on thermometers (9025.19.80) will hurt small businesses who install thermostat systems as well as the retailers who sell these consumer goods and slow the adoption of advanced connected home technologies.

Tariffs on tools for 3D printing (3916.90.30) will hurt small businesses looking to use this technology to revolutionize their production processes by raising costs associated with utilizing this technology.

Tariffs on consumer goods more generally will harm American retailers, including small businesses, who sell low-margin products and who will be forced to pass the cost of price increases along to the consumer.

Economic impact of additional tariffs

Finally, NFTC is increasingly concerned about the likely harm to U.S. businesses, farmers, workers and working families of rising trade tensions as a direct result of the remedies stemming from the Section 301 investigation. Direct economic harm to American businesses and consumers would grow substantially by the imposition by the United States “re-retaliation” tariffs on up to $500 billion of Chinese imports.

Further, the repeated use of Section 301 to threaten new rounds of tariffs on an escalating value of imports from China is creating uncertainty for the U.S. business community, which threatens to slow decision-making and undermine U.S. economic growth.

In conclusion, we continue to believe that imposing unilateral tariffs on products from China is unlikely to change their behavior and will harm U.S. competitiveness and economic growth as well as consumers and working families.

We ask USTR to remove the HTS subheadings listed above from the list of products subject to tariffs. More broadly, we hope the U.S. Government will seek to resolve outstanding concerns through direct consultations with the Chinese Government while working with its allies to apply pressure jointly on China to reform its practices and policies. And we strongly encourage the U.S. Government to refrain from further retaliatory tariffs against China, which will increase the harm to American businesses and consumers.

Thank you for your consideration of these comments and for the opportunity to testify.