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

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Members of the Section 301 Committee,

Good Morning. I am Slone Pearson, Global Trade Counsel for Fortive Corporation. I appreciate the opportunity to testify today on the impact of certain proposed tariffs affecting Fortive's operating companies, particularly the significant, negative impact such tariffs will have on our domestic manufacturing, jobs, and exports.

Fortive Corporation is a diversified industrial conglomerate with annual revenues of approximately $6.7 billion. Fortive is comprised of twenty-three operating companies, and is headquartered in Everett, Washington. Fortive operating companies design, develop, manufacture, and market professional and engineered products, software and services for a range of end markets. We employ approximately 13,000 people in the United States, in 127 facilities, across 27 states, half of which include manufacturing. The majority of Fortive's research, development, engineering and manufacturing activities take place in the United States. Our operating companies generate approximately $660 million annually in U.S. exports by selling U.S. manufactured products to our customers around the globe. Many of those U.S. manufactured products include Chinese-origin components produced by our wholly-owned subsidiaries in China.

Today, I'm speaking on behalf of 19 Fortive operating companies, which are listed in our written testimony in footnote one,[1] and are directly impacted by the second set of Section 301 tariffs. Most of my comments today will focus on Fluke Electronics Corp., located in Washington State, the most significantly impacted Fortive operating company.

[1] Fluke Electronics Corp., Tektronix, Inc., Thomson Linear LLC, NMTC, Inc., Kollmorgen Corp., Dynapar Corp., Keithley Instruments LLC, Hennessy Industries, Inc. Qualitrol Company LLC, Gilbarco, Inc., Veeder Root Co., Gems Sensors Inc., Anderson Instrument Company, Inc., Industrial Scientific Corp., Navman Wireless North America LT, Setra Systems, Inc., Balls Screws & Actuators Co., Inc., Maxtek Components Corp. and American Precision Industries, Inc.

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The Fortive companies support the Administration's efforts to remedy the unreasonable and/or discriminatory actions of the Government of China described in the Section 301 determination. That said, we respectfully submit that the proposed remedy is overbroad, not consistent with the goals of the 301 investigation, and will have a number of unintended, negative consequences that far outweigh the potential benefit. As a result, we request that the USTR adopt certain categorical exclusions to ensure that the proposed remedy is not *itself* unreasonable and/or discriminatory and does not unnecessarily burden or restrict U.S. commerce.

Specifically, we request that USTR (1) exempt from the proposed additional duties products manufactured in China by wholly foreign-owned enterprises and (2) exempt parts that are imported for the purposes of manufacturing goods in the United States.

For decades, Fortive operating companies have been operating in China through wholly foreign-owned entities that are fully-owned and controlled by Fortive. During that time, we have neither suffered from, nor contributed to, the Chinese government's acts, policies, and practices identified in the Section 301 determination. Our companies have not licensed, or been required to license, any technologies to Chinese entities, nor have they been compelled to transfer IP and/or technology to Chinese companies or State actors. To the contrary, we have an established and impressive track record of protecting and enforcing our portfolio of hundreds of IP rights in China, including patents, trademarks, and copyrights.

The ultimate objective of the Section 301 determination (as far as manufacturing in China is concerned) is to eliminate forced technology transfers, including via compelled joint ventures or other ownership restrictions. We submit that it would be illogical, unfair, and inappropriate to penalize companies such as Fortive, which manufacture in China under conditions consistent with the end goals of the Section 301 determination. In short, our companies have already "crossed the finish line" the United States has set on this issue. As a result, imposing duties on the articles produced by WFOEs will not have the intended result – it will not, for example, impact the companies that have contributed to the harm by transferring technology to JV partners, nor will it give Chinese policy-makers any incentive to change their policies. Instead, imposing tariffs on these articles will only hurt the U.S. companies that own these facilities, as well as the U.S. workers who rely on those parts from China to make best-in-class products in the United States.

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Not only is it unjustifiable to impose additional duties on products manufactured by Fortive's wholly owned subsidiaries in China, but if this "remedy" is imposed, it will likely have negative unintended consequences:

(1) the Company's long-term investment in its wholly-owned subsidiaries in China will compel us to continue sourcing both finished goods and parts and assemblies from China;
(2) the additional duties may cause our companies to lose market share to foreign competitors that do not manufacture in the United States or China and will negatively impact our customers, which include the United States (in government procurement sales);
(3) any financial losses we incur incident to the increased duties will accrue in the United States, impacting U.S. profitability, investments, innovation, customers, employees, and shareholders; and
(4) alternatively, if our companies are ultimately forced to restructure their sourcing of covered merchandise as a result of the increased duties, we lose the opportunity to create U.S. jobs.

In addition to exempting articles produced by a WFOE, we also request that the USTR exempt articles that are imported for use in U.S. manufacturing operations.

Well over half of the subject items imported by Fortive companies are parts intended for manufacture of goods in the U.S. Doing so allows us to employ Americans, create U.S. origin technologies (including those critical to U.S. national security), contribute to Buy American Act required programs, and support U.S. exports. Imposing an additional 25% tariff on parts used in U.S. manufacturing operations is contrary to the goals set forth in the President's memorandum seeking to position the U.S. as a world leader in high-technology goods, strengthen the competitiveness of U.S. exports, and create American jobs.

The majority of our component part imports subject to the 301 tariffs are electronic and mechanical products that are no longer available in the domestic US market. Establishing alternative sourcing requires substantial investment that is impractical in the short term due to the long and complicated process of qualifying suppliers that meet our high standards of quality and compliance. To the extent our companies are required to restructure their supply chain as a result of the Section 301 tariffs, we will be

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forced to look to other low cost regions to remain competitive, manufacturing of these items will not return to the U.S., and additional U.S. jobs will not result.

We submit that companies that can establish independence from the alleged unfair acts of the government of China should not be made to pay for those unfair acts and should be able to have their products excluded on a company-specific basis. As such we urge the USTR to implement these tariffs in a manner consistent with the 301 investigation and the President's goals by providing exemptions for (1) articles produced by a WFOE and (2) parts imported for use in U.S. manufacturing operations.

That concludes my prepared testimony, and I would be pleased to answer any questions you may have. Thank you.

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