September 6, 2018

The Honorable Robert Lighthizer
United States Trade Representative
600 17th Street NW
Washington, DC 20508

RE: **Multi-Industry Association Comments – Proposed Modification of Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation (Docket No. USTR-2018-0026-0001)**

Dear Ambassador Lighthizer:

The undersigned organizations representing U.S. manufacturers, farmers and agribusinesses, retailers, technology companies, natural gas and oil companies, importers, exporters, and other supply chain stakeholders are writing to share our comments in response to the proposed 10% or 25% additional *ad valorem* duty increase on 6,031 8-digit tariff lines and that in aggregate encompass approximately $200 billion in imports from China. The proposed tariff list (List 3) covers products across a much wider range of sectors and product categories which will result in a broader negative impact to a much wider group of companies, their workers, and American consumers at large. We oppose the imposition of new tariffs at either 10% or 25% on List 3

Continuing the tit-for-tat tariff escalation with China only serves to expand the harm to more U.S. economic interests, including farmers, families, businesses, and workers. Unilaterally imposing tariffs on hundreds of billions of dollars in goods invites retaliation and has not resulted in meaningful negotiations or concessions.

Our organizations agree that longstanding issues in China have negatively impacted many U.S. companies, and we support the Administration negotiating meaningful, binding and long-term solutions with the Chinese government. As we have commented previously, applying these high levels of tariffs on Chinese products will continue to miss the mark. Rather than facilitating negotiations, each round of tariffs raises costs on the American businesses and consumers. These taxes undermine the competitiveness of U.S. manufacturers and services providers who rely on those imports to make and sell their goods and services in the United States and around the world.

Assumptions that U.S. companies can simply move their production out of China are incorrect. Global supply chains are extremely complex. It can take years to find the right partners who can meet the proper criteria and produce products at the scale and cost that is needed. We do not support the U.S. government using tariffs as a means to induce U.S. companies to change their sourcing strategies.

USTR is proposing the imposition of either a 10% or 25% tariff on an additional $200 billion in Chinese imports. China has announced its intent to retaliate against an additional $60 billion in U.S. exports for with tariffs at 5%, 10% 20%, and 25% levels for different product categories. With each new round of escalating tariffs, the products impacted have a more tenuous connection back to the tech-transfer and Made in 2025 policies of the Chinese government that triggered the Section 301 investigation. As stated in the July 17th Federal Register Notice, the additional $200 billion product list is intended to punish China for its retaliatory tariffs and to force the Chinese government to reform its practices. Tit-for-tat tariffs are counterproductive and so far have only produced increased costs for American businesses, farmers, importers, exporters and consumers.

U.S. manufacturers, service providers, and consumers will bear the brunt of these new proposed tariffs. The negative impact will fall particularly hard on small- and medium-sized businesses and their workers who lack the scale, resources, and options to weather or adapt to these tariffs. And once these tariffs go into effect, taking them down may not happen anytime soon, as both sides harden their positions. Without any timeline of when these tariffs will be removed, the added costs and negative effects on American businesses, farms and citizens will only compound over time.

Our organizations also oppose the idea often floated by the President that the U.S. may impose tariffs on <u>all</u> Chinese imports. Already at an aggregate $250 billion level – the Administration's actions will hit the very consumers, small- and medium-sized businesses, manufacturers, farmers and workers the Administration wants to protect. Should all trade to and from China be subject to tariffs, the negative impact and disruptions to the U.S. economy would reach across the entire country, from sector to sector, and negatively impact every American family. Some in the Administration have claimed that the escalating tariffs through various actions by the Administration and retaliatory actions by our trading partners represent mere "rounding errors" in comparison to the size of the U.S. and Chinese economies. But imposing a 25% tariff on an aggregate $250 billion in Chinese annual imports would result in U.S. businesses and consumers paying a total of $62.5 billion in tariffs annually. To place this in context, in 2017 the United States collected approximately $33 billion in tariffs – <u>total</u> – on all imports from the world, including China. And U.S. businesses and citizens – not Chinese companies or the government– pay these tariffs on U.S. imports.

As we have recommended previously, we encourage the Administration to suspend further tariff actions and engage with China, working in concert with our trading partners and allies, to secure meaningful, sustainable, and significant changes to Chinese policies that disadvantage U.S. economic interests and that do not comply with the letter or spirit of the rules-based trading system. Brinkmanship will only bring more hardship and higher costs for American businesses, manufacturers, farmers, families, and workers.

In the Federal Register Notice, you asked two specific questions be addressed in written comments:

> First, whether imposing increased duties on a particular product would be practicable or effective to obtain the elimination of China's acts, policies, and practices, and

Second, whether maintaining or imposing additional duties on a particular product would cause disproportionate economic harm to U.S. interests, including small- or medium-size businesses and consumer.

We offer the following comments and responses to your questions.

1) *Broad coverage of tariff categories directly harms U.S. companies, farmers, small businesses, and consumers – But Disproportionately Harms U.S. Manufacturers*

The broad reach of the 6,031 proposed 8-digit product categories will harm businesses, farmers and consumers across the U.S. economy and our member organizations. Unlike the prior lists, these products cover a far wider range of Chapters in the U.S. Harmonized Tariff Schedule, including seafood, electronics, chemicals, furniture, travel goods, energy, vehicles, toiletries, wood products, textiles, garden tools, machinery and many more.

According to an American Action Forum report[1], the proposed tariffs at a 10% level could raise overall costs for both U.S. consumers and businesses by roughly $19.7 billion per year. At the 25% level, those costs might rise to $48.2 billion. This report concludes, moreover, that 70% of the products included in the proposed tariff list are used by U.S. companies for domestic production, and a fully 98% of the products affect the U.S. manufacturing industry. Undermining the competitiveness of U.S. companies through these tariffs – both to sell in the U.S. market and to export from the United States around the world -- will not result in elimination of China's acts, policies and practices, but instead will strengthen China's competitive position globally. U.S. manufacturers and consumers will bear the brunt of the 6,031 proposed tariff increases – not Chinese companies or businesses – and therefore the negative economic harm for the United States will be disproportionate.

The Federal Register Notice states that the Administration has proposed the $200 billion list in response to Chinese retaliatory tariffs, and implicitly acknowledges that the expansive increase in products and trade that would be impacted by a 10% or 25% tariff no longer is connected back to the underlying Chinese government policies or the projected $50 billion harm that underpin the Section 301 investigation and USTR's report on Chinese policies. The list is punitive by design, but the punishment will hit U.S. manufacturers and consumers hardest.

2) *Disproportionate Negative Impact on U.S. Small- and Medium-Sized Companies and Consumers*

Many U.S. small- and medium-sized businesses import finished products that they sell or use to run their business from China. Many others import inputs that they incorporate into products they make and sell in the United States. Unlike larger companies, these U.S. companies may not have any alternative suppliers outside of China, or the ability to locate new suppliers who can meet their product quality, compliance, specification and cost needs. Many of these businesses

[1] See https://www.americanactionforum.org/research/calculating-the-costs-of-the-u-s-china-trade-war-the-administrations-new-tariffs-on-200-billion/

operate on low margins. A 10% tariff or tax on those imports they rely upon could put many out of business. A 25% tariff or tax on those imports, however, would exceed the ability of most small businesses to absorb or pass on that cost. Their orders will disappear and they are the least likely to weather the tariffs.

Small businesses in the United States are disproportionately responsible for job growth during economic upturns and often are the leading innovators in the U.S. economy. Crippling their ability to make products or provide their services through these proposed tariffs could do more damage to the U.S. innovation economy than the problematic Chinese policies outlined in the Section 301 investigatory report. Should these companies go out of business or become uncompetitive both in the U.S. and world markets, the American economy will suffer.

Even for larger companies, a new 25% tax on finished products, ingredients, components or other products on the proposed list will lead to significant disruption and constrain growth and hiring. Whether the new tariffs hit small or large businesses, the additional 10% or 25% costs will also get passed on to consumers.

3) Broad Retaliation on U.S. exports to China

To date the Chinese have retaliated against each U.S. tariff action pursuant to the Section 301 investigation. Most recently, the Chinese government released a $60 billion retaliatory tariff list on U.S. exports. Although the United States imports more goods than it exports to China, each retaliatory action from China further closes the second largest economy to U.S. goods exports. And should the retaliation move beyond tariffs on goods, it could negatively impact U.S. service providers selling in China. Should the $200 billion list of products be subject to a 10% or 25% tariff, U.S. manufacturers, farmers, ranchers, fishermen, and others will be hit in both directions. If past actions are predictive, our members will soon be facing tariffs on all their imports from China as well as all their exports to China. Although China will face a more direct and larger tariff impact, the damage to both countries will be significant, and there will be few if any winners.

4) Supply Chain Disruptions

As we have noted in prior comments, the Administration continues to overestimate the ability of U.S. companies to shift supply chains out of China or for farmers and fishermen to redirect their exports to other markets. Supply chains and export markets develop over time and vary significantly in complexity, scale, and flexibility across product categories. But for any product, a U.S. importer would have to determine if an alternative supplier in another country could meet the cost, quality, safety, compliance and certification requirements to sell its product in the U.S. market or other foreign markets. Even if all these criteria could theoretically be met, the question of the capacity for foreign suppliers to meet demand presents another key challenge.

As U.S. competitors could be seeking alternative suppliers simultaneously, the twin problems of scarcity and price gouging will emerge. These in turn will increase cost of goods and erode U.S. companies' competitiveness, driving inflation for U.S. consumers. Then there is the question of how U.S. companies reliant on China sourcing can possibly act on the Administration's likely timeline. If the List 1 and List 2 processes are any guide, companies impacted by List 3 will have mere weeks to find new, non-China suppliers prior to imposition of the proposed tariffs. Of course, small- and medium-sized businesses will be least able to navigate these business risks and increased costs, but for all affected companies the challenge will be insurmountable.

A 10% or 25% tariff on $200 billion in Chinese imports could also depress the U.S. ports economy as increased costs reduce demand and reduce trade. Moreover, the increased costs on inputs reduce the competitiveness of U.S. exports that incorporate those imports and thus could depress exports as well, further harming U.S. ports. As U.S. companies capture the highest value of most global values chains, a reduction in trade due to these tariffs will disproportionately harm the U.S. companies with lesser impact on the lower value-add role than their Chinese suppliers who assemble, finish, or package these products.

Finally, the holiday season is fast approaching. Orders to meet holiday season demand are in most sectors already made. Indeed, within weeks of this date shippers will begin to move products to the United States for holiday season purchases. Again, on the Administration's apparent timeline, the 10% or 25% tariff on $250 billion (or perhaps more) of goods from China this Fall will hit just as those products enter United States ports, denying U.S. importers and consumers any time to adjust those orders for this season. The situation will be ripe for significant supply chain disruption during the most critical time for retailers and their suppliers.

Conclusion

Recognizing the significant challenges that Chinese government policies present for our members and for U.S. economic interests, we recommend that the U.S. government and Chinese government suspend further tariff actions and begin a comprehensive negotiation to address longstanding trade and investment issues. Although the Administration continues to argue that it will escalate tariff actions against China until China alters its behavior, we request that every effort be undertaken now to initiate meaningful negotiations expeditiously. We recommend no further tariff actions be taken until those negotiations have a chance to produce significant and verifiable results.

We appreciate your consideration of our comments.

Sincerely,