



July 23, 2018

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

**RE: Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation (Docket USTR-2018-0018)**

Dear Ambassador Lighthizer,

On behalf of the National Retail Federation and our members, we are submitting these comments in response to the U.S. Trade Representative's (USTR) request for public comments concerning proposed tariffs of 25 percent to be applied to selected products ("List 2") in response to "Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation."<sup>1</sup>

NRF is the world's largest retail trade association, representing discount and department stores, home goods and specialty stores, Main Street merchants, grocers, wholesalers, chain restaurants and Internet retailers from the United States and more than 45 countries. Retail is the nation's largest private sector employer, supporting one in four U.S. jobs – 42 million working Americans. Contributing \$2.6 trillion to annual GDP, retail is a daily barometer for the nation's economy.

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<sup>1</sup> Office of the U.S. Trade Representative, "Notice of Determination and Request for Public Comment Concerning Proposed Determination of Action Pursuant to Section 201: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation," *Federal Register*, Vol. 83, No. 119, June 20, 2018.

USTR is seeking comments about whether specific products on List 2 should be retained or removed, or whether other products should be added; whether the proposed tariff level should be increased; and what amount of total trade is appropriate to be covered by additional duties. More specifically, USTR is seeking comments on whether imposing increased duties would be effective in eliminating the Chinese practices that are the subject of the Section 301 investigation, and whether imposing the duties would cause disproportionate economic harm to U.S. interests, including small- or medium-sized businesses and consumers.

NRF strongly opposes any efforts to include or add consumer products to the list of products subject to additional tariffs. We do *not* recommend that any products be added to the proposed list, or that the proposed tariff rate be increased in any way, or that the level of trade affected be expanded. Given China's reaction to the imposition of duties on the first list of products selected for 25 percent tariffs, it appears to NRF that imposing additional tariffs on more products will *not* motivate China to change its practices or bring them to the negotiating table. In the meantime, the new tariffs imposed on product from List 2 (as well as List 1) will have a distinct negative impact on U.S. retailers and their consumers. This negative impact will only increase as we see an escalation in tariffs (List 3).

NRF's comments in this submission reiterate those of our previous submission in this matter (Docket USTR-2018-0005), briefly summarized here:

- China maintains certain acts, policies and practices that infringe on U.S. intellectual property rights, or require or pressure U.S. companies seeking to maintain operations in China to transfer innovative technologies and intellectual property to Chinese companies, among other related practices. These measures are longstanding irritants to U.S. and, indeed, global companies. Imposing tariffs on U.S. imports from China is not the way to force change in these practices and policies. Instead, the Administration should join with other World Trade Organization Members to challenge Chinese practices in that body.
- In a world of global supply chains, U.S. imports – from China or other countries – contain important amounts of U.S. content/value. A tariff on those imports is

therefore a tax on exported U.S. content and related U.S. jobs. A tariff on imports from China that makes those goods less competitive to U.S. consumers – or not available at all any more – punishes U.S. exporters of the components and other raw materials, including the R&D and design and other services that are also contained in the value of the product: U.S. exports are damaged as well.

- The imposition of 25 percent tariffs on \$50 billion in imports (List 1 and List 2) from China will prove costly to the U.S. economy and U.S. jobs. It is estimated that the imposition of these tariffs coupled with retaliation in kind by China will have a net negative impact on U.S. GDP of -0.02 percent and of nearly 134,000 jobs.
- It is not a simple, fast or cost-free process to change suppliers in response to the sudden imposition of tariffs on imports from China. Sourcing decisions typically are made six to 12 months ahead of delivery. Finding new vendors in other countries can take years for most retailers. Shifting to new countries in concert with hundreds of other buyers presents still more challenges, including limited capacity of alternative producers.

### **Requested Action**

Because of their significant adverse impacts on U.S. consumers, NRF respectfully requests that all of the products on the list included in Appendix A be removed from List 2. These are products that are price sensitive; for which retail margins are small and therefore price impacts on consumers will be large; for which there is limited availability of alternative sources of supply, particular at the volume levels our members require; or for which current contracts with suppliers prevent us from moving production in the short term. In addition, it should be noted that for many products made in China that would be affected by tariffs, it will likely be Chinese factory owners who will move to other locations in southeast Asia to get around the tariffs, so they will have no appreciable impact on the overall U.S. trade deficit or on Chinese interests.

We also respectfully request that the Administration refrain from adding any new consumer goods to the proposed list to take the place of goods that are removed from it. NRF further (again) respectfully requests that the Administration reconsider altogether the tariff approach to incentivizing China to modify its acts, policies and practices affecting U.S. intellectual property rights and investment barriers. The collateral damage to wide swaths of the U.S. economy would not be insignificant.

We encourage the Administration to develop instead a comprehensive strategy in close consultation with the U.S. business community, including retailers, to effectively address the longstanding trade policy issues in China. This strategy must include clearly defined objectives, direct negotiating mechanisms with the Chinese, targeted deliverables, and deadlines with measurable results. This policy must be clearly communicated with stakeholders and must ensure mechanisms to hold China accountable for achieving the results. This must include a concrete list of binding commitments and actions that China can and should take.

### **Conclusion**

We thank the Administration for the opportunity to provide input on this important issue. We look forward to continuing the discussion on how best to address China's unfair trade practices in a manner that focuses on the specific issues without harming U.S. businesses, workers or consumers.

Sincerely,



David French  
Senior Vice President  
Government Relations

## National Retail Federation Submission

## Docket USTR-2018-0018

## Appendix A

HTS Code	HTS Description
3901.90.90	Polymers of ethylene, nesoi, in primary forms, other than elastomeric
3903.11.00	Polystyrene, expandable, in primary forms
3906.90.50	Acrylic polymers (except plastics or elastomers), in primary forms, nesoi
3907.99.50	Other polyesters nesoi, saturated, in primary forms
3913.10.00	Alginic acid, and its salts and esters, in primary forms
3917.31.00	Flexible plastic tubes, pipes and hoses, having a minimum burst pressure of 27.6 MPa
3917.32.00	Tubes, pipes and hoses, of plastics, other than rigid, not reinforced or otherwise combined with other materials, without fittings
3917.40.00	Fittings of plastics, for plastic tubes, pipes and hoses, nesoi
3919.10.10	Self-adhesive plates, sheets, other flat shapes, of plastics, in rolls n/o 20 em wide, light-reflecting surface produced by glass grains
3919.10.20	Self-adhesive plates, sheets, other flat shapes, of plastics, in rolls n/o 20 em wide, not having a light-reflecting glass grain surface
3919.90.50	Self-adhesive plates, sheets, other flat shapes, of plastics, not having a light-reflecting surface produced by glass grains, nesoi
3920.10.00	Nonadhesive plates, sheets, film, foil and strip, noncellular, not reinforced or combined with other materials, of polymers of ethylene
3920.20.00	Non-adhesive plates, sheets, film, foil and strip, non-cellular, not reinforced or combined with other materials, of polymers of propylene
3920.49.00	Nonadhesive plates, sheets, film, foil, strip, noncellular, not combined w/other materials, of polymers of vinyl chloride,< 6% plasticizers
3920.51.50	Nonadhesive plates, sheets, film, foil and strip, noncellular, not combined with other materials, of polymethyl methacrylate, not flexible

3920.62.00	Nonadhesive plates, sheets, film, foil and strip, noncellular, not combined with other materials, of polyethylene terephthalate
3920.71.00	Nonadhesive plates, sheets, film, foil and strip, noncellular, not combined with other materials, of regenerated cellulose
3921.12.11	Nonadhesive plates, sheets, film, foil, strip, cellular, of polymers of vinyl chloride, with man-made textile fibers, over 70% plastics
3921.12.15	Nonadhesive plates, sheets, film, foil, strip, cellular, of polymers of vinyl chloride, with man-made textile fibers, n/o 70% plastics
3921.13.50	Nonadhesive plates, sheets, film, foil and strip, cellular, of polymers of vinyl chloride, not combined with textile materials
3921.19.00	Nonadhesive plates, sheets, film, foil and strip, cellular, of plastics nesoi
3921.90.19	Non-adhesive plates, sheets, film, foil and strip, of non-cellular plastics combined with textile materials,
7308.90.95	Iron or steel, structures (excluding prefab structures of 9406) and parts of structures, nesoi
8419.89.95	Industrial machinery, plant or equipment for the treatment of materials, by process involving a change in temperature, nesoi
8424.82.00	Agricultural or horticultural projecting or dispersing equipment including irrigation equipment
8424.89.90	Other mechanical appliances for projecting, dispersing or spraying liquids or powders, nesoi
8432.29.00	Harrows (other than disc), scarifiers, cultivators, weeders and hoes for soil preparation or cultivation
8432.42.00	Fertilizer distributors
8465.96.00	Splitting, slicing or paring machines for working wood, cork, bone, hard rubber, hard plastics or similar hard materials
8501.31.80	DC generators of an output not exceeding 750 W
8507.80.81	Other storage batteries nesoi, other than of a kind used as the primary source of power for electric vehicles
8536.30.80	Electrical apparatus for protecting electrical circuits, for a voltage not exceeding 1,000 V, nesoi
8536.50.70	Certain specified electronic and electromechanical snap-action switches, for a voltage not exceeding 1,000 V
8543.70.99	Other machinery in this subheading

8544.49.10	Insulated electric conductors of a kind used for telecommunications, for a voltage not exceeding 80 V, not fitted with connectors
8544.49.20	Insulated electric conductors nesoi, for a voltage not exceeding 80 V, not fitted with connectors
9014.10.90	Direction finding compasses, other than optical instruments, gyroscopic compasses or electrical
9025.19.80	Thermometers, for direct reading, not combined with other instruments, other than liquid filled thermometers
9025.80.10	Electrical: hydrometers & sim. floating instr., hygrometers, psychometers, & any comb. with or w/o thermometers, pyrometers, & barometers
9029.20.40	Speedometers and tachometers, other than bicycle speedometers
9030.31.00	Multimeters for measuring or checking electrical voltage, current, resistance or power, without a recording device