

July 23, 2018

The Honorable Robert E. Lighthizer
Ambassador
Office of the United States Trade Representative
600 17th Street NW
Washington, DC 20006

**RE: Notice of Action and Request for Public Comment Concerning
Proposed Determination of Action Pursuant to Section 301: China's Acts,
Policies, and Practices Related to Technology Transfer, Intellectual
Property, and Innovation (Docket No. USTR-2018-0018)**

Dear Ambassador Lighthizer:

On behalf of the Retail Industry Leaders Association (RILA), thank you for the opportunity to comment on the Notice of Proposed Determination of Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation (Notice of Proposed Action) (Docket No. USTR-2018-0018) issued by the Office of the United States Trade Representative (USTR) on June 20, 2018.

By way of background, RILA is the trade association of the world's largest and most innovative retail companies. RILA promotes consumer choice and economic freedom through public policy and industry operational excellence. Its members include more than 200 retailers, product manufacturers, and service suppliers, which together account for more than \$1.5 trillion in annual sales, millions of American jobs, and more than 100,000 stores, manufacturing facilities and distribution centers domestically and abroad. Retail provides more than 42 million American jobs throughout our supply chain.

RILA, and our members, appreciate the opportunity to express our shared concerns about China's acts, policies, and practices that have harmed U.S. businesses. We support the Administration's goal of holding our trading partners accountable. Our companies and employees thrive in a rules-based globalized economy where markets are open, trade rules and obligations are met, and governance is fair and transparent.

In the Notice of Proposed Action, USTR proposes to self-impose an additional duty of 25 percent on a list of products imported from China, covering 284 subheadings of the Harmonized Tariff Schedule of the United States (HTS). RILA appreciates the Administration's decision to allow for the public to comment on the proposed HTS list prior to the tariffs being imposed. We also welcome the opportunity to request product exemptions from the 301 retaliatory tariffs that went into effect on July 6, 2018.

As demonstrated by the previous 301 retaliatory tariffs, RILA believe the proposed imposition of unilateral tariffs on an additional \$16 billion worth of imports from China would not address the underlying issue of improper transfers of technology in China or be effective in eliminating China's discriminatory behavior against U.S. companies.

In fact, RILA believes these proposed tariffs would do greater harm to U.S. economic interests. RILA supports the Administration's focus on putting "maximum pressure on China, minimum pressure on U.S. consumers." However, the products covered in this Proposed Notice of Action would impact American retailers and the families we serve every day.

The use of tariffs has not been proven effective in promoting Chinese compliance with the international norms at issue. We strongly encourage the Administration to not impose any more tariffs while the United States and China are working on a negotiated settlement.

In response to the request for comments, RILA submits the attached appendix as our recommendations for removal from the proposed list of HTS lines subject to a 25 percent tariff. RILA's priority list includes 45 HTS lines covering hundreds of consumer products, such as fog machines, dog kennels, rotary tillers, and meat thermometers. The manufacturing of these products in China would not advance China's economy nor would it bring it closer to realizing its Made in China 2025 agenda and thus should be removed from the proposed list.

We support the Administration's decision to hold China accountable but implementing the proposed tariffs on products like these will mean higher prices for consumers, particularly lower and middle-income families who can ill-afford to pay more for every day consumer goods. If enacted, the proposed tariffs will cause serious disruptions to the American economy and impact nearly every American family across our country. For several products on the proposed list, there is no alternative other than China to source these consumer products. The Administration must do more to ensure that consumer products remain off the tariff list to prevent harm to American consumers.

We welcome the opportunity to share the intricacies of our global supply chain, the impact these tariffs will have to consumers, and the millions of American retail jobs supported by trade as you begin your decision-making. While trade data may provide insight into alternative sourcing opportunities or substitutable products, a dialogue with sophisticated and experienced partners would have resulted in a list that does not include the products listed.

Competition to provide value to American families in the retail sector is fierce. The two major factors in maintaining a strong, secure supply chain are certainty and cost. Retailers need assurances that the products they sell can be made at the quality, quantity and cost our customers demand. Trustworthy suppliers are also critical to maintaining a dependable supply chain that not only meets our business needs, but also our business values. Shifting changing supply chains will increase risk, and ultimately drive up costs throughout the supply chain resulting in higher costs to consumers.

While there is no good time for increased tariffs, the Administration will conclude the public comment process at the end of July as retailers are beginning to ramp up for the biggest season of the year – holiday. If America’s retailers face any increase in the cost of products in the form of a tariff, it would mean higher prices at the checkout for American families this holiday season.

Consumer products, such as Christmas lights (8543.70.99); plastic straws (3917.32.00); cling wrap and plastic tablecloths (3920.10.00); meat thermometers (9025.80.10), are dominantly produced in China, but have no functional connection or application to any of China’s industrial policies, including Made in China 2025. Millions of American families purchase lights for home décor, increasingly so in the potential timeframe of these tariffs. Cling wrap is used to protect food while meat thermometers keep food safe for our consumption. These are examples of consumer products that should not be on the final list of goods subject to the proposed 301 retaliatory tariffs. And given the lack of availability for alternative sources, it is likely that the increased tariff would result in higher costs and thus passed along to the American consumer.

We are also concerned about the significant number of consumer products categorized under 7408.90.95, a catchall HTS line that pertains to iron or steel structures. The proposed 25 percent tariff would apply to consumer products such as dog kennels, gazebos, pergolas, fence panels, gates, scaffold guardrails, elevated hunting platforms and “shed-in-a-box”. We are certain that these products are not involved in the Made in China 2025 plan, nor other Chinese industrial policies, and therefore should not be included in the final list of HTS lines subject to the proposed 301 retaliatory tariffs.

In addition to the impact on American consumers and retailers, our U.S. vendors will also bear the cost of these tariffs. For example, one of the suppliers of outdoor structures is a U.S. company that wholly owns the manufacturing operation China. The impact of these tariffs would reverberate throughout the U.S. global value chain, targeting consumers, retailers, and our U.S.-based suppliers who design these products.

8424.89.90 is an additional proposed HTS catchall line that includes several consumer products, including soap dispensers, oil misters, fog machines, foaming cleaning systems, and showerheads. All of these products have no link to the Made in China 2025. If included, we expect USTR to receive hundreds of product exclusions for 8424.89.90 and 7408.90.95 given the quantity and variety of consumer products that are included in this catchall tariff code that does not pertain to any of China's industrial policies, including Made in China 2025.

While these comments are focused on the Notice of Proposed Action, we cannot miss the opportunity to also express our significant concerns about the potential for an additional \$200 billion imports, which includes billions of dollars in consumer products, to be subject to an additional 10 percent tariff. It would be a devastating blow to American families, retailers, farmers, manufacturers and many other U.S. businesses.

In conclusion, we ask that you remove all the HTS lines in the attached appendix from the final list of products subject to the 301 retaliatory tariffs. We look forward to working with you as you update this list based on our comments and we hope to provide additional input and specific feedback to you prior to finalizing it. As you do so, please think of the millions of U.S. families, our customers, who effectively pay the price of any increases on tariffs.

Thank you for the consideration of our views and the impact of USTR's proposal on the retail industry. Please feel free to contact me at hun.quach@rila.org or (703) 600-2041 if you have any questions.

Sincerely,



Hun Quach

Vice President, International Trade
Retail Industry Leaders Association (RILA)

HTS	Product Description	Common Product Description
3901.90.90	Polymers of ethylene, nesoi, in primary forms, other than elastomeric	Fine flurry, iridescent snowflakes
3903.11.00	Polystyrene, expandable, in primary forms	Expand polys of styrene
3906.90.50	Acrylic polymers (except plastics or elastomers), in primary forms, nesoi	Hydrated aqua beads jar, dry water gems, test tube toys
3907.99.50	Other polyesters nesoi, saturated, in primary forms	Plastic flurry flakes, plastic snow flakes
3916.20.00	Monofilament with cross-section dimension over 1 mm, rods, sticks, profile shapes, at most surface-worked, of polymers of vinyl chloride	Craft cord
3916.90.30	Monofilament nesoi, of plastics, excluding ethylene, vinyl chloride and acrylic polymers	Trimmer line
3917.31.00	Flexible plastic tubes, pipes and hoses, having a minimum burst pressure of 27.6 MPa	Garden hose
3917.32.00	Tubes, pipes and hoses, of plastics, other than rigid, not reinforced or otherwise combined with other materials, without fittings	Plastic straws, flexible straws, coasters, airline tubing, straw dispenser, hose mender, plastic tubing, discharge hoses
3917.40.00	Fittings of plastics, for plastic tubes, pipes and hoses, nesoi	Hose menders, plastic hose couplings, plastic quick connects
3919.10.20	Self-adhesive plates, sheets, other flat shapes, of plastics, in rolls n/o 20 cm wide, not having a light-reflecting glass grain surface	PVC electrical tape, clear and double sided tape, shipping tape, masking tape, decorative tape, foam tape, duct tape, tarp repair tape, blue painters tape, reflective tape, glass screen protectors for iPhones and Samsung Galaxy, nail design set, labels
3919.90.50	Self-adhesive plates, sheets, other flat shapes, of plastics, not having a light-reflecting surface produced by glass grains, nesoi	Stickers, mirror stickers, nail art stickers, glitter stickers, writable tabs, floor/wall décor, office sticker flags, removable dry erase label, non-iron fabric labels, egg decorating kit, perfume roller, labels, signboard, graphics for light board displays
3920.10.00	Nonadhesive plates, sheets, film, foil and strip, noncellular, not reinforced or combined with other materials, of polymers of ethylene	Cling wrap, plastic drop cloths, plastic tablecloths, roller plastic sheeting, paint tray set, vacuum sealer rolls
3920.20.00	Nonadhesive plates, sheets, film, foil and strip, noncellular, not reinforced or combined with other materials, of polymers of propylene	Curling ribbon assortment, metallic wrap, window insulation kit, cello clear roll wrap, fill and wrap kit, ribbon spool
3920.49.00	Nonadhesive plates, sheets, film, foil, strip, noncellular, not combined w/other materials, of polymers of vinyl chloride, < 6% plasticizers	Vinyl repair kit
3920.51.50	Nonadhesive plates, sheets, film, foil and strip, noncellular, not combined with other materials, of polymethyl methacrylate, not flexible	Plastic block acrylic stamp
3920.62.00	Nonadhesive plates, sheets, film, foil and strip, noncellular, not combined with other materials, of polyethylene terephthalate	Tissue foil, ribbon spool, holographic tissue
3920.71.00	Nonadhesive plates, sheets, film, foil and strip, noncellular, not combined with other materials, of regenerated cellulose	Plastic table protectors
3920.99.20	Nonadhesive film, strips and sheets, noncellular, not combined with other materials, of plastics nesoi, flexible	Jewelry cord
3921.12.11	Nonadhesive plates, sheets, film, foil, strip, cellular, of polymers of vinyl chloride, with man-made textile fibers, over 70% plastics	Rug underlay
3921.12.15	Nonadhesive plates, sheets, film, foil, strip, cellular, of polymers of vinyl chloride, with man-made textile fibers, n/o 70% plastics	Rug pads
3921.13.50	Nonadhesive plates, sheets, film, foil and strip, cellular, of polyurethanes, not combined with textile materials, nesoi	Fringe poster border
3921.19.00	Nonadhesive plates, sheets, film, foil and strip, cellular, of plastics nesoi	Foam sheets, window art
3921.90.19	Nonadhesive plates, sheets, film, foil and strip, of noncellular plastics combined with textile materials, nesoi, not over 1.492 kg/sq m	Plastic velvet ribbons
7308.90.95	Iron or steel, structures (excluding prefab structures of 9406) and parts of structures, nesoi	Miscellaneous steel items, dog kennels, fencing, car ports, gazebos, pergolas, elevated hunting platforms, hunting deck, "shed-in-a-box", canopy gazebos, outdoor structures, fence panels, gates, scaffold guardrails, steel racking for store display, parts of drop ceiling structures

HTS	Product Description	Common Product Description
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	8 pattern sprinkler, Oscillating/Impact sprinklers
8424.89.90	Other mechanical appliances for projecting, dispersing or spraying liquids or powders, nesoi	Soap dispenser, oil mister, spraying apparatus, plastic dispenser, travel bottle, fog machines, foaming cleaning system, mist maker, auto spray foaming wash system, showerhead
8432.29.00	Harrows (other than disc), scarifiers, cultivators, weeders and hoes for soil preparation or cultivation	Rotary tillers, cultivators
8432.42.00	Fertilizer distributors	
8464.10.01	Sawing machines for working stone, ceramics, concrete, asbestos-cement or like mineral materials or for cold working glass	Tile saws (with and without stands)
8465.96.00	Splitting, slicing or paring machines for working wood, cork, bone, hard rubber, hard plastics or similar hard materials	Log splitters
8473.50.90	Parts and accessories, nesoi, suitable for use with machines of two or more of the headings 8469 to 8472	Stylus
8501.31.80	DC generators of an output not exceeding 750 W	Solar back-up power kit, Solar pack power kit
8501.32.60	DC generators of an output exceeding 750 W but not exceeding 75 kW	Generators
8507.80.81	Other storage batteries nesoi, other than of a kind used as the primary source of power for electric vehicles	Power bank, battery back up, compact speaker
8536.30.80	Electrical apparatus for protecting electrical circuits, for a voltage not exceeding 1,000 V, nesoi	GFCI outlets
8536.50.70	Certain specified electronic and electromechanical snap-action switches, for a voltage not exceeding 1,000 V	Lighting dimmers, fans, light switches
8543.70.99	Other machinery in this subheading	Universal remote control, selfie stick, LED strobe light, light-up shoelaces, junction box, crayon melter, pet training collars, strobe lights, animated carousel, sonic pestchaser, wireless fence dog collar, rotisserie kit, outdoor insect trap, carousel music box, kid's smart watch, laser light projector, electronic globe, ceramic oil diffuser
8544.49.10	Insulated electric conductors of a kind used for telecommunications, for a voltage not exceeding 80 V, not fitted with connectors	Speaker cables, sync/charging cables, wire
8544.49.20	Insulated electric conductors nesoi, for a voltage not exceeding 80 V, not fitted with connectors	3.5mm to 3.5mm cable
9025.19.80	Thermometers, for direct reading, not combined with other instruments, other than liquid-filled thermometers	Digital thermometer, meat thermometer, oven thermometer, pulse oximeter, digital multimeter
9025.80.10	Electrical: hydrometers & sim. floating instr., hygrometers, psychometers, & any comb. with or w/o thermometers, pyrometers, & barometers	Thermometer
9029.20.40	Speedometers and tachometers, other than bicycle speedometers	Pulse Oximeters
9030.31.00	Multimeters for measuring or checking electrical voltage, current, resistance or power, without a recording device	