

May 22, 2018

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

**RE: Post-Hearing Rebuttal Comments - Notice of Determination 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-2018-0005)**

Dear Ambassador Lighthizer:

On behalf of the Retail Industry Leaders Association (RILA), thank you for the opportunity to submit post-hearing comments 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-2018-0005).

We welcome the Administration's announcement this week stating that the "trade war is on hold" with China. We believe a dialogue among the world's largest economies is an important step towards addressing the underlying concerns found in USTR's 301 report. The decision to suspend the use of tariffs is smart and will ease tensions among stakeholders who seek a commercially meaningful resolution.

By way of background, RILA is the trade association of the world's largest and most innovative retail companies. 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.

During the public hearing on May 17, RILA was asked our position on the use of tariffs to retaliate against China for its acts, policies, and practices within this investigation. RILA supports the Administration's efforts to hold our trading partners accountable; however, we are opposed to the use of tariffs, in particular the use of tariffs on consumer products, if American families are expected to bear the burden of China's bad behavior. The Administration's proposed tariff action would not address the improper transfer of technology to China and would do greater harm to U.S. economic interests and would not be effective in eliminating China's discriminatory behavior against U.S. companies. We strongly encourage the Administration to not impose any tariffs while the United States and China are working on a negotiated settlement.

The Administration's current proposed list of goods subject to the 25 percent additional tariff will raise prices for hundreds of consumer products. Furthermore, if tariffs are applied on consumer products such as apparel, footwear, toys, consumer electronics, and home goods, it would be a devastating blow to American consumers and retailers.

Last week, RILA was also asked to provide additional information regarding the consumer products currently on the proposed list of goods subject to the tariffs. The 301 Committee asked whether domestic sourcing is available and/or how much time it would take to move production or sourcing to a third country. Given the short timetable, RILA is providing this information for a limited number of products given the complexity of sourcing and supply chains. We may be able to update this information in the coming weeks.

As part of this exercise, we considered whether manufacturing or production of a product currently exists here in the United States or a third country. For several products on the proposed list, there is no alternative source other than China to source these consumer products. As you are aware, China is by far a top supplier of many consumer products and thus shifting current sourcing plans would significantly disrupt the flow of trade and raise costs on every day essentials. Similarly, for several products on the proposed list, there is no alternative source other than China for these consumer products.

For domestic sourcing, there are very limited options and we have noted that in Appendix A. Products such as bug bite pens (HTS 30044900), certain lithium batteries (HR 85065000), and blank CDRs (HTS 85234930) cannot be sourced here in the United States. However, for products such as apparel, which was recommended by one petition, domestic apparel production at the scale and quality required for RILA members does not currently exist here in the United States. In fact, the submission recognizes the lack of domestic manufacturing for these products and recommends moving production to a third country as an alternative.

For third country sourcing, there may be some alternatives outside of China; however, the capacity is central given the large-scale manufacturing needed to meet our volume requirements. Current capabilities may not be readily available and thus may require an expansion of a facility or investment in new machinery and training to develop a skilled workforce. This will all extend the timeline for moving production.

Additionally, moving production of many of these products outside of China raises significant risk and challenges with capacity, responsible sourcing, and logistics. Retailers work to ensure compliance with U.S. trade laws when making sourcing decisions. Consideration of raw materials or components and current duties and taxes from the alternative sourcing countries are all key factors. We must also consider whether the alternative has the infrastructure to transport items safely and securely to ports of call and whether this meets our just-in-time delivery schedules.

Trustworthy suppliers are also critical to maintaining a dependable supply chain that not only meet our business needs, but also our business values. Shifting changing supply chains will increase risk. This could ultimately drive up costs throughout the supply chain resulting in higher costs to consumers.

Because of the challenges described here, RILA recommends the products listed in the attached Appendix A, which includes additional products not previously included in our prior submission, to be removed from the Administration's proposed list of goods subject to the tariffs.

We also implore you avoid adding other consumer products, whether in this proposed action or any future Administration actions, and to avoid taxing middle-class American families through the imposition of tariffs. We welcome the opportunity to share with you how our supply chains work and include us in 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.

We also request improved transparency with respect to the addition of new products to the Notice of Proposed Action. Adding new products without any transparency as to the methodology or the opportunity to comment would be a misstep for this process. We ask that the public be provided the opportunity to comment on a final list before it is to take effect, particularly for any new products that may be added.

We ask that you remove the consumer products from the Notice of Proposed Actions. We look forward to working with you as you update this list based on our comments and we hope to provide additional input to you prior to finalizing it. As you do so, please think of the millions of U.S. consumers, 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](mailto: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)

APPENDIX A

HTS	Product	Availability of Domestic Sourcing (Yes/No/Not Commercially Available [NCA])
30021200	Pregnancy, drug, ovulation tests	Yes
30044900	Bug bite pen	No
30049092	Acne pads, anti itch, diaper rash, muscle rub gel; Medicaments nesoi, in dosage form and packed for retail	Yes
40091200	Rubber Air hoses	
40094200	Air Hoses	
40169915	Plastic Door and Sink Stoppers	NCA
73181600	Zinc-Plated Hex Nut, Galvanized Steel Hex Nut	NCA
73202050	Helical spings	
76051900	Speaker Wire	
76052900	Aluminum Decorative Wire	NCA
84131900	Transfer pumps and related items	
84135000	Pumps	
84137020	Outdoor Fountains, Centrifugal pumps for liquids, not fitted with a measuring device, nesi	NCA
84137020	Fountains	
84138100	Aquarium pumps for liquids - Other	
84143040	Refrigerator compressor part	
84149041	Air or gas compressors	
84186901	Water dispenser, drinking water cooler, kegerator, beer growler beer tap, ice maker, compact refridgerator, ice cream maker, refridgerating or freezing equipment nesi	
84193901	Nail Polish Heat Lamp	NCA
84198190	Popcorn Makers	
84201090	Laminators, papercrafting devices, rolling machines for pasta, clay; Calendaring or other rolling machines, other than for metals or glass	
84209990	Parts of calendering or other rolling machines, other than for metals or glass, nesi	
84211900	Centrifuges, other than cream separators or clothes dryers	
84212100	Water Filter Pitchers, Water filter cartridges for refridgerators, wicking filter, charcoal filter, pool vacuum, pool cleaner, aquarium water filtering or purifying machinery; Machinery and apparatus for filtering or purifying water	
84213980	Air Purifiers, Tower air purifier; Filtering or purifying machinery and apparatus for gases, other than intake air filters for internal combustion engines or catalytic conv.	
84219900	Air Purifier Parts, Aquarium Filter Cartridges, parts of water filtering or purifying machinery, Vacuum Hose	
84221100	Dishwasher, Portable Dishwasher, Compact Dishwasher	
84223091	Vacuum Sealers	
84241000	Fire extinguishers	
84271040	Forklifts, other work trucks; Self-propelled works trucks powered by an electric motor, rider type forklift trucks	
84271080	Forklifts, other work trucks; Self-propelled works trucks powered by an electric motor, fitted with lifting and handling equipment	
84272040	Forklifts, other work trucks; Self-propelled works trucks not powered by an electric motor, rider type forklift trucks	
84272080	Forklifts, other work trucks; Self-propelled works trucks not powered by an electric motor, fitted with lifting and handling equipment, nesi	
<b>84289002</b>	<b>Gate Openers</b>	
84302000	Snowplows and snowblowers	
84328000	Spreader	
84368000	Pruners, hedge trimmers and similar tools	
84419000	Parts for machinery used in making up paper pulp, paper or paperboard, including cutting machines; Surface Carve Kit, Tool holders and self-opening dieheads for use solely or principally with machines of headings 8456 to 8465, nesoi	
84439945	Parts and accessories of copy machines	
<b>84649001</b>	<b>Manual Tile Cutters</b>	
84659200	Amp Planer	
84659300	Belt/Disc Sander	
84661001	Screwdriver Set, Ratchet Screwdriver Set, Socket Set, Mechanics Tool Set, Project Kits, Ratchet Handle, BIT Driver, Magnetic Bit Holder, Ratchets; Screwdriver	NCA
84663060	Router tables and related items	
84669250	Miter Saw Stand, Super Clamp	
84671150	Air tool kits, impact wrenches and related items	
<b>84678100</b>	<b>Chainsaws and related items</b>	
84678950	Caulk Gun	NCA
84705000	Cash registers	
84717060	LCD digital photo frame	
84717090	Memory card reader	
84813090	Aquarium Check Valves of Plastic	

84821050 Radial bearings	
84834030 Gear boxes	
84834090 Gears	
84839010 Parts of bearing housings	
85051910 Dry Erase Boards, Flexible Magnets, Magnet Sheets; Flexible permanent magnets, other than of metal	
85059040 Electromagnetic or permanent magnet work holders and parts thereof	
85065000 Non-reusable lithium batteries, Button Cell Lithium Batteries; Lithium primary cells and primary batteries	No
85073080 Lithium Battery, Drill with Batteries	
85151100 Soldering Iron	
85232910 Audio cassette, cassette tape	
85234930 Laser lens cleaner	
85234930 Blank CDR	No
85255070 Handsfree Bluetooth Car FM Transmitter With USB Charger; Player	NCA
<b>85256010 Transceivers, 2-way radios</b>	
85256020 Wireless rear speaker hub	
85269250 Presenter, Remote, Radio remote control apparatus other than for video game consoles	
85279915 Stereo receiver, speaker tower; Radio receivers, NESOI	NCA
85279915 Speaker Tower	
85285925 Monitor	
85287264 Smart LED TV, IHD CTV, HD TV, UHD TV, FHD TV	
85299093 TV mount	
<b>85334080 Dimmer switches and other electrical variable resistors</b>	
85361000 Fuses, Christmas Replacement Fuse, Accessories	
85362000 Automatic circuit breakers, for a voltage not exceeding 1,000 V	
85365090 Metallic AC Disconnects and related electrical items	
85366940 Alligator test clips, coax & HDMI wall plate, headphone splitter, connects, quick connects, ring connects, splice connects, wire splice connectors; Connectors: coaxial, cylindrical multicontact, rack and panel, printed circuit, ribbon or flat cable, for a voltage not exceeding 1,000 V	NCA
85366940 Audio Splitter	
85369085 Floor box kit and related electrical items	
85389081 Strain Relief Connectors and other similar items	
85392930 Electrical filament lamps nesi, designed for a voltage not exceeding 100 V, excluding ultraviolet and infrared lamps	
85414020 Light-emitting diodes (LED's)	
85414095 Winding wire	
85441100 Speaker cable	
85443000 Amp Kit; Auto Drive Wire Harness	
85447000 Optic Cable, Fiber Optical Cable with Mini Adapter	
<b>87032101 4WD Utility Vehicles</b>	
90132000 Laser Pointers	
90158080 Water stations, weather stations; Surveying, hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, nesi, nonoptical	
90183900 Lancet	
90185000 Optical Equipment	
90211000 Finger splints; Orthopedic or fracture appliances, and parts and accessories thereof	
90214000 Hearing Aids	
90258035 terrarium hygrometer	
90258050 terrarium thermometer, barometer, other measuring instruments in combination	
90262080 Tire Gauge, Instruments and apparatus, other than electrical, for measuring or checking the pressure of liquids or gases	NCA
90275040 Laser temp gun and related items	
90303334 AC Voltage Detector, Electrical Tester, Voltage Tester, Outlet Tester, Digital Voltage Tester, Multimeter, Battery Tester	
90303338 Battery check, circuit tester, Christmas light accessories; Other instruments and apparatus, nesi, for measuring or checking electrical voltage, current, resistance or power, without a recording device	
90304000 Wire Tracers and other instruments and apparatus specially designed for telecommunications	
90314990 Laser Levels	
90318080 Level, torpedo level, plastic drill gauge, ramp type feeler gauge, stud finder; Measuring and checking instruments, appliances and machines, nesi	NCA
90319059 Laser level tripods and related items	
90321000 Automatic Thermostats	
90329061 Thermostat Guards and related items	