September 20, 2019

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

Re: Proposed Modification of Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation (84 FR 46212)

Dear Ambassador Lighthizer:

On behalf of U.S. chemical manufacturers, the American Chemistry Council (ACC) appreciates the opportunity to provide written comments on the proposed October 15 increase in the tariff rate on $250 billion in imports from China ("Lists 1, 2, and 3") from 25 to 30 percent.

ACC and our members support the Administration's efforts to address unfair trade practices in China, including inadequate protections of intellectual property (IP) and forced technology transfer practices, which have hurt our industry. We believe the principles of free and fair trade should apply to all members of the World Trade Organization (WTO), including China. We also believe that the United States will succeed in addressing these practices principally through leveraging the multilateral, collective willpower of countries who share our concerns.

However, as one of this country's leading exporting industries, and an important trading partner to China, the U.S. chemical industry is increasingly concerned that China may not change its behavior in the way intended by ongoing and escalating tariffs. We urge the Administration to negotiate a conclusion to the ongoing dispute with China as soon as possible.

ACC believes that increasing the rate of additional duties on the chemical and plastics subheadings under Chapters 28-39 of the Harmonized Tariff System, as listed in the Annexes to the Federal Register Notice of September 3, 2019 (84 FR 46212), would <u>not</u> be practicable or effective to obtain the elimination of China's acts, policies, and practices. Furthermore, increasing the rate of additional duties on these chemical and plastics products <u>would</u> cause disproportionate economic harm to U.S. interests, including small- or medium-sized businesses and consumers.

ACC's position is that a prolonged trade dispute between the United States and China will decrease trade and dampen economic growth in both countries. The impact on the U.S. chemical industry will be profound. China supplies the United States with a number of chemicals which are not available anywhere else and which are critical inputs to U.S. manufacturing. China is also the third-largest export market for U.S. chemicals manufacturers. Future growth for our industry – and an opportunity to leverage our industry's $204 billion in investment in the U.S. industry – depends on a strong trading relationship with China and a trade policy that creates certainty and predictability for investors.

A prolonged trade dispute will not achieve a more balanced trading relationship between the U.S. and China. It will not advance the interests of the U.S. economy. And it will not help U.S. manufacturers and consumers. So far, study after study has shown that the tariffs have had negative impacts on the U.S. economy, businesses, and consumers. Even more studies indicate that economies succeed and grow when they are open and have low to zero tariffs.

The U.S. Chemical Sector Benefits from Open Markets

U.S. chemical manufacturers value their business relationships with partners in China. They want to continue to supply China's growing market with innovative and sustainable chemicals and plastics products. China is the U.S. chemical industry's third-largest export market overall. China also supplies the United States with critical inputs to our own manufacturing processes. In 2017, the United States exported $13 billion chemicals and plastics to China. In fact, a notable amount of U.S.-China chemicals trade is between related parties: 28% of U.S. imports and 37% of exports. Based on the historic level of new investment in U.S. chemical manufacturing, there is every expectation that, absent a trade dispute, U.S. manufacturers would continue to increase their exports to China.

U.S. Chemical Manufacturers Need a Tariff-Free Market in China

According to the WTO Tariff Profiles 2019, China's average most-favored nation (MFN) applied tariff rate for chemicals within Chapters 28-39 of the Harmonized System is 6.6 percent. Its average WTO bound rate for chemicals is 6.7 percent. Relative to other large emerging markets, China's average MFN applied and bound rates are low. For example, India's average MFN applied rate is 8.1 percent and its WTO bound rate is 39.6 percent. However, China's average MFN applied and WTO bound tariff rates for chemicals are higher than the average MFN applied rates for chemicals for the U.S. (2.8 percent), the EU (4.6 percent), and Japan (2.3 percent). China's relatively low rates are the result of China joining the WTO Chemical Tariff Harmonization Agreement as a part of its WTO Accession Protocol. The stability of China's tariff rates for chemicals and plastics had in the past provided U.S. chemical manufacturers certainty when exporting product to China.

Unfortunately, the U.S.-China trade dispute has caused China to apply retaliatory tariffs. ACC estimates that China's retaliatory tariffs in response to U.S. Lists 1, 2, 3, and 4 will ultimately impact almost $12 billion in U.S. exports of chemicals and plastics. China's retaliatory tariffs cover 91 percent of U.S. chemicals exports to China and 100 percent of U.S. plastic products exports to China.

China's additional tariffs on U.S. exports of chemicals and plastics has obviated the certainty of China's tariff rates, thereby threatening investments in chemical manufacturing in the United States. U.S. chemical manufacturers now face additional tariffs of 5, 10, 20, and 25 percent depending on the product, on top of existing MFN tariff rates. U.S. chemical manufacturers would support an outcome where the U.S. and China agree to eliminate these additional tariffs, reverting to the previous status quo of MFN trade.

<u>The U.S. Tariffs have a Significant Negative Impact on U.S. Chemical Manufacturers</u>

If the tariffs on imports covered under List 4b come into effect on December 15 and the tariff rate on Lists 1, 2, and 3 rises to 30 percent on October, U.S. chemical manufacturers will then be subject to a 25-30 percent tax increase on a total of $25 billion in imports of chemicals and plastics from China. At that point, the U.S. additional tariffs will cover 86 percent of chemical imports from China and 100 percent of plastics products imports. Such a change in costs is increasing uncertainty and unpredictability in the U.S. chemical sector, which is having ripple effects across the U.S. economy.

Many of these products in these are inputs into chemical manufacturing - building block chemicals, raw materials, and feedstocks - that can only be sourced from China. There are no alternative sources for these products in the United States or other markets. If companies want to continue producing chemicals that require these inputs, they will move production to or invest in other countries. High-paying, high-skilled jobs will move from the United States to other markets. U.S. hiring may slow and U.S. production facilities could close. Small and medium-sized chemical manufacturers will bear the disproportionate effects of these tariffs, as they will not be able to mitigate their impacts in the same way that multinational companies can.

The U.S. tariffs on the products in all four lists harm the customers of the U.S. chemical sector as well. Higher prices lead to less demand as companies decide not to invest or expand their business in order to adjust to a higher-cost business environment. The U.S. chemical sector supplies chemicals to a wide range of economic sectors in the United States - agriculture building and construction, automotive products, civil aviation, information technology. Less demand for U.S.-made chemicals in these sectors – as a result of higher prices – will cause further dislocation in the U.S. chemical industry, as companies take hard looks at the diminishing returns on their investments.

<u>China's Retaliation Against Exports of U.S.-Made Chemicals and Plastics Exacerbates the Impact of the U.S. Tariffs</u>

ACC analysis indicates that China's tariffs on $11 billion in imports of chemicals and plastics from the United States to date has caused U.S. exports of these products to decrease by 24 percent from December 2017 to December 2018. Overall U.S. exports of chemicals and plastics to China increased over that period by only 2.6 percent, compared to double digit increases in previous years.

ACC analysis also indicates that China's retaliatory tariffs may result in the loss of 55,000 U.S. jobs and weaken economic activity in the United States by $18 billion. This harm is due to the closure of the China market to U.S. exports of chemicals and plastics but also the closure of that market to U.S. exports of products with embedded chemistries (e.g., high tech machinery, agricultural goods, and autos).

Continued Chinese retaliatory tariffs on U.S. chemical and plastics exports has led to a reduction in demand for those exports. Depending on the elasticity of demand (responsiveness) for U.S.

products in China, the retaliatory tariffs could result in substantial additional losses for American producers, their employees, and for the communities that depend on the economic activity that the chemicals and plastics industry generates.

In the baseline case (the scenario where, initially, Chinese importers are more challenged to find alternative sources to U.S. products), ACC estimates that the loss in U.S. chemicals and plastics exports to China would be equivalent to $1.6 billion annually.

In the worst case scenario (where Chinese customers can more readily adjust their supply chains to substitute for U.S. sourced-goods), the loss to U.S. chemical and plastics exports could reach $6.1 billion annually. The worst case scenario is entirely possible, especially in the longer term. The Chinese government is actively working towards directing industrial capacity expansions in their own domestic economy and eliminating tariff and other barriers to doing business with other (non-U.S.) foreign partners.

China will likely retaliate further against U.S. exports of chemicals and plastics, through tariffs and non-tariff barriers. China will also retaliate against exports of U.S. products with embedded chemistries, which will lead to less demand for chemicals in the United States. In order to maintain access to the China market and avoid China's retaliatory tariffs, U.S. chemical manufacturers may decide to move production to facilities in Asia, Europe, and the Middle East.

Chemical Supply Chains May Not Move Back to the United States

The stated intent of the U.S. Section 301 tariffs on imports from China is to change China's unfair trade practices. That policy may have the effect of forcing some U.S. companies to move their supply chains from China to the U.S. or other countries. Due to higher U.S. tariffs on imports of chemicals and plastics from China and higher China tariffs on imports of chemicals and plastics from the United States, supply chains most likely are moving to other countries that have duty-free access to both markets. It is possible, then, that that countries other than the United States will benefit from the trade conflict with China.

It is also possible that companies seeking to maintain access to the large and growing China market may choose to stay in China. Companies that predicated their investments in the U.S. chemicals marketplace for the purpose of exporting to China will move their supply chains out of the United States. In addition, growth in investments in the U.S. chemical sector may slow, despite the large comparative advantage of low-cost, abundant supplies of natural gas feedstocks in the United States.

ACC's member companies have described an array of negative impacts caused by the U.S. tariffs, as well as the quotas and retaliatory actions of U.S. trading partners. Based on their experience, China's retaliatory tariffs will lead to reduced U.S. production and jobs and will incentivize offshoring. The Administration's proposed Section 301 tariff action and the resulting Chinese retaliation together create significant uncertainty for chemical companies as they plan and build new chemical plants and projects in the United States and work to export U.S.-made chemicals to trading partners. Industry-rich states like Louisiana, Michigan, Ohio, Pennsylvania, and Texas will feel a disproportionate impact from China's retaliatory tariffs. With their economies heavily reliant on the manufacture of chemistry products destined for China, states could see steep losses in jobs, investment, and new construction. If this uncertainty persists and increases, companies will consider investing in markets with greater policy certainty, low to zero tariffs, and lower input costs.

Higher tariffs in China as a result of retaliation will shut out U.S. chemicals exports to the benefit of competitors in Asia, Europe, and the Middle East. The overall uncertainty in the trading environment will lead to less wage and job growth in the United States. These dynamics would not only damage the chemical industry and the downstream manufacturers using chemicals – higher prices for chemicals lead to less demand for U.S. chemicals, less manufacturing in the United States, less job creation and workforce development, less investment, and costlier, less competitive U.S. manufactured products – but could lead to inflation over time and a weaker U.S. economy.

ACC opposes unilateral tariff actions by the United States to address unfair trade practices in China. We urge the Administration to avoid increasing the tariff rate on products in HTS Chapters 28-39, and to negotiate a swift conclusion to this conflict. We look forward to working with the Section 301 Committee as it reviews our comments.

Best regards,

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