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Docket No. USTR-2018-0005

May 8, 2018

Ambassador Robert E. Lighthizer  
U.S. Trade Representative  
Office of the United States Trade Representative  
600 17<sup>th</sup> Street NW  
Washington, DC 20508

**Re: Auto Care Association Comments Concerning Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation**

Dear Ambassador Lighthizer,

The Auto Care Association appreciates the opportunity to provide comments and recommendations to the Office of the United States Trade Representative (USTR) concerning the *Proposed Determination of Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*. This request is timely filed in accordance with USTR's notice of determination and request for public comments published in the *Federal Register* on April 6, 2018.<sup>1</sup>

We hope our submission will assist the Office of the United States Trade Representative Section 301 Committee evaluate the economic harm on U.S. businesses and consumers when imposing additional duties on imports.

**The Auto Care Association**

The Auto Care Association, a Bethesda, Md.-based trade association, has nearly 3,000 member companies and affiliates that manufacture, distribute and sell motor vehicle parts, accessories, tools, equipment, materials, supplies and services. Auto Care Association member companies operate or otherwise represent more than 150,000 manufacturing

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<sup>1</sup> *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*, 83 Fed. Reg. 14906 (Apr. 6, 2018).

facilities, repair shops, parts stores and distribution outlets that provide parts and services designed to make vehicles last longer, perform better and keep drivers safer.

Our members include businesses with global operations that depend on well-established, integrated supply chains to increase competitiveness and product offerings for our members' customers.

### **The Auto Care Industry**

The auto care industry, also commonly referred to as the automotive aftermarket, is the part of the automotive industry that deals with the manufacture, remanufacture, distribution, wholesaling and retailing of all vehicle replacement parts, accessories, tools, equipment, chemicals and services. The industry includes parts, accessories and services for light vehicles and medium and heavy-duty trucks. Any product or service that a vehicle may need after the original equipment (OE) manufacturer assembles it is an auto care industry product or service.

The motor vehicle aftermarket is a significant sector of the U.S. economy.

- We employ 4.6 million people (3.2 percent of the workforce) and reported sales of more than \$381 billion (2 percent of the nominal GDP) in 2017, a 3.6 percent increase over the previous year.<sup>2</sup>
- The U.S. auto care industry includes 533,000 businesses that form a coast-to-coast network of independent manufacturers, distributors, retailers and repair shops.
- Our industry's integrated grid of companies and organizations provides parts, products and vehicle service and repair for 272 million cars and trucks on U.S. roads today.

### **Impact of Proposed Section 301 Actions on the U.S. Automotive Industry**

As outlined in the Auto Care Association's 2017 Special 301 Out-of-Cycle Review of Notorious Markets<sup>3</sup>, we continue to work with our members to address a number of intellectual property concerns, including counterfeit auto parts and brand protection on e-commerce platforms. In many cases, intellectual property is a company's most valuable asset and competitive edge, supporting jobs and driving economic growth.

The Auto Care Association supports the Trump administration's efforts to address China's unfair trade policies that discriminate against and restrict U.S. commerce through forced technology transfers, data localization and lack of enforcement. These practices jeopardize

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<sup>2</sup> "2018 Digital Auto Care Factbook: 27<sup>th</sup> Edition," <https://www.autocare.org/factbook18>.

<sup>3</sup> Auto Care Association submission in *2017 Special 301 Out-of-Cycle Review of Notorious Markets: Request for Public Comments Docket No. USTR-2017-0015*, Oct. 2, 2017.

U.S. businesses' trade secrets, intellectual property and global competitiveness. As outlined in USTR's Section 301 Report<sup>4</sup>, we are encouraged by President Xi and the U.S.-China Joint Commission on Commerce and Trade's (JCCT) recent bilateral commitments related to technology transfer.

However, as a manufacturing hub and an important source of imports, China is also a critical trading partner in our industry's supply chain. We are concerned with the administration's recent proposed action to impose an additional duty of 25 percent on certain products imported from China. There are a number automotive parts and components included on the proposed tariff list that, although imported, support U.S. jobs downstream throughout the supply chain.

Sourcing determinations are made months and years in advance, and even minimal adjustments to tariffs would force our members to modify their supply chains, find new sources for parts, face new capacity or quality issues and likely pass the increased costs downstream to the consumer. All of these factors and disruptions could cause companies to be less competitive in the U.S. and in global markets, or even force them to cease operations.

At the same time, many automotive parts products on the proposed Section 301 tariff list do not fit China's industrial policy, Made in 2025, of high-technology industries. We believe the administration's intent of imposing tariffs was to target research-and-development intensive products. And unfortunately, many automotive parts products that do not involve advanced technology have been included on the list.

Additionally, following the Trump administration's announcement of tariffs on \$50 billion in goods from China, China retaliated with their own list of import tariffs on \$50 billion in goods from the U.S. In response, the administration is considering imposing another round of tariffs on \$100 billion of goods from China. This type of back-and-forth "trade war" is also a concern, as China's large population and growing economy have made it the fastest growing market for U.S. exporters in the last decade, and third largest market for U.S. exports of auto parts in 2017.<sup>5</sup> China's amount of vehicles in operation is growing to be the largest in the world, with vehicles requiring repairs currently growing at a rate of double digits.<sup>6</sup> Further retaliation from China on U.S. products would be costly to U.S. businesses that depend on the Chinese market or are looking to China for export opportunities.

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<sup>4</sup> Office of the United States Trade Representative, Executive of the President, *Findings of the Investigation into China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation Under Section 301 of the Trade Act of 1974*, March 22, 2018 at 8.

<sup>5</sup> U.S. International Trade Commission Interactive Trade DataWeb (USITC DataWeb), using data retrieved from the U.S. Bureau of the Census (accessed June 12, 2017).

<sup>6</sup> "2017 China Market Report: An Assessment of China's Light Passenger Vehicle Aftermarket," Auto Care Association at 34.

### **HTS Codes Subject to Section 301 Tariffs**

Our members report that a number of products included on the tariff list **cannot** be sourced in the U.S. as there are **no** U.S.-based factories producing some of these products. At the same time, minimal alternative sources exist, as China is the primary supplier to the world. Therefore, we do not see any benefits to the U.S. economy or U.S.-based manufacturers when imposing tariffs on these products, as sourcing would just shift to another country.

Our members also report that producing a number of products included on the tariff list would be extremely cost prohibitive if manufactured in the U.S. This is especially true for air conditioning systems in the aftermarket industry, where the volume per part number is low due to the number of unique parts covering every year, make and model vehicle on the road. Imposing additional tariffs on these auto parts and components would increase the price substantially, making it difficult for working Americans to afford cost-effective options when repairing their vehicles.

For the reasons above, we are requesting that USTR not include HTS codes related to automotive parts, components and repair services on the final list of products subject the Section 301 tariffs.

As indicated above, we believe that it was the administration's intent to address China's Made in 2025 industrial policy and technology transfer issues by targeting high-technology products. However, many automotive parts products that do not fit the criteria have been included in the Section 301 tariff list. We believe it was not the administration's intent to include these types of consumer goods in the list of products subject to the Section 301 tariffs.

### **Auto Care Association Policy Recommendations**

We urge the Trump administration to consider the severity of imposing tariffs on imported goods and the unintended negative consequences not only on the U.S. automotive industry, but also on the overall U.S. economy. As we have seen in other trade barrier cases, imposing tariffs on imported goods causes manufacturing to shift to other low-cost countries and does not alleviate the overall U.S. trade imbalance.

According to a recent independent study prepared for the Consumer Technology Association and the National Retail Federation<sup>7</sup>, "The proposed tariffs on U.S. imports of

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<sup>7</sup> *Tariffs on Imports from China: The Estimated Impacts on the U.S. Economy*, Trade Partnership Worldwide, LLC Prepared for Consumer Technology Association and National Retail Federation, April 30, 2018, <http://www.cta.tech/cta/media/policyImages/China-301-Tariffs-FINAL.pdf> at 12.

selected products, coupled with retaliation by China, would have significant net negative impacts on the U.S. economy and U.S. workers. These impacts would be felt in nearly every sector, and in every U.S. state.” Even without any tariff retaliation from China, U.S. imposition of 25 percent tariffs would reduce U.S. GDP, make U.S. output more expensive and cause U.S. unemployment to rise.<sup>8</sup>

When addressing the complex trade relationship between the U.S. and China, we hope the administration will work toward a carefully constructed, rules-based bilateral trading system where China abides by its commitments when it joined the World Trade Organization. To level the playing field and address market access barriers, this framework should include an enforceable, strong intellectual property rights protection system, which would help create a more predictable and fair trade environment for U.S. companies doing business in China.

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In conclusion, we support the Trump administration’s efforts to improve U.S. competitiveness in the global marketplace, but we hope the administration will continue engaging in high-level dialogue with China in addressing these issues to protect investments, facilitate trade and create competitive value chains that benefit the global growth of our members. We appreciate the opportunity to testify and I am available to answer any questions.

We appreciate the opportunity to provide comments in this investigation. We look forward to continuing this dialogue and welcome the administration to contact us if there are any additional questions.

Respectfully submitted,

/s/ Aaron Lowe

Aaron Lowe  
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**Auto Care Association**

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<sup>8</sup> Id at 8.