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Submitted via www.regulations.gov
Docket No. USTR-2018-0026

September 6, 2018

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

Re: Auto Care Association Comments Concerning Proposed Modification of Action Pursuant to 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 USTR's *Proposed Modification 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 request for comments and extension of public comment period published in the *Federal Register* on July 17, 2018 and Aug. 7, 2018, respectively.[1]

We hope our submission will assist the Office of the United States Trade Representative Section 301 Committee evaluate the severe economic harm on American businesses, and American 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,

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[1] *Request for Comments Concerning Proposed Modification of Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 83 Fed. Reg. 33,608 (July 17, 2018) ("*Third Tariff List*"); *Extension of Public Comment Period Concerning Proposed Modification of Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 83 Fed. Reg. 38,760 (Aug. 7, 2018).

accessories, tools, equipment, materials, supplies and services. Auto Care Association member companies operate or otherwise represent more than 150,000 manufacturing facilities, repair shops, parts stores and distribution outlets that provide parts and services designed to ensure vehicles last longer, perform better and keep our roadways 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 American car owner.

The Auto Care Industry

The auto care industry, also commonly referred to as the automotive aftermarket, is the segment of the automotive industry that is responsible for 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 $392 billion (2 percent of the nominal GDP) in 2018, a 3.6 percent increase over the previous year.[2]
- 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 280.6 million cars and trucks on U.S. roads today.

China as a Source for Automotive Parts and Components

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 the absence of intellectual property enforcement. These practices jeopardize U.S. businesses' trade secrets, intellectual property and global competitiveness.

However, China is also a critical trading partner in our industry's supply chain and we are concerned with the administration's recent actions to impose tariffs on a number of

[2] "2018 Digital Auto Care Factbook: 27th Edition," https://www.autocare.org/factbook18.

automotive parts and components imported from China in connection with USTR's section 301 investigations.

When questioned why manufacturing cannot be relocated back to the U.S., the reality is that the automotive sector has evolved into an industry operating on global platforms with products being designed, manufactured, assembled and sold in multiple countries. As a manufacturing hub, China has become an important source of imports.

While a vehicle manufacturer may be able to set up a self-contained plant dedicated to producing parts in volumes of millions of pieces for its line of vehicles that year, the auto care (or aftermarket) industry services and provides unique parts covering every year, make and model vehicle on the road today. In other words, an aftermarket supplier may be producing thousands and thousands of SKUs for a broad range of vehicles, from a 1968 Pontiac Firebird to a 2018 Honda Civic, in volumes of less than 100 to numbers of 1000 or more. The diversity of products in low volumes requires a complex network of sub-suppliers that does not currently exist outside of China.

The cost for retooling each individual model to move manufacturing out of China would require tremendous capital and years to redevelop. Even if an alternate source is found, the monetary startup investment associated with facilities, quality control and compliance would be devastating, and could force some companies out of business along the way.

Our members have worked with suppliers in China over many years to develop products that meet a high standard of safety and quality. Our industry is concerned that should the tariff significantly increase the cost of products from China, smaller suppliers from other countries that do not have quality control measures in place will sacrifice safety and quality in an attempt to sell their products at reduced costs to unsuspecting U.S. consumers.

Economic Harm of Proposed Section 301 Tariffs on U.S. Interests

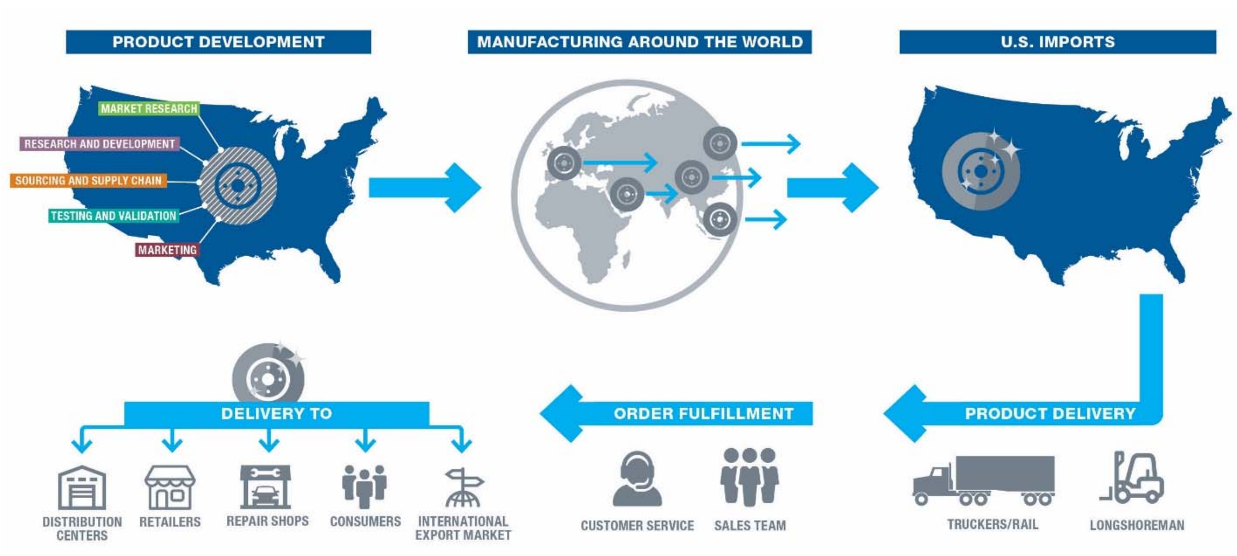
1. *U.S. Auto Care Industry*

The U.S. auto industry is a strong and growing sector of the U.S. economy. As stated above, we reported sales of more than $392 billion, 2 percent of the nominal GDP in 2018, a 3.6 percent increase over the previous year. Manufacturing of motor vehicles, bodies and trailers, and parts comprises of 7.6 percent of total U.S. manufacturing value-added output in 2016.

In a recent member survey conducted by the Auto Care Association, 87 percent responded stating that recent tariffs are negatively impacting business operations, and nearly half of those being impacted are small family-owned businesses. In many cases, the proposed products make up a majority of a company's product offerings and the cost of an additional tariff could put it completely out of business.

Since it is both time- and cost-prohibitive to source many of these products domestically or from another country at the same quality and volume needed to meet demand, many companies will have no choice but to continue manufacturing in China. Some will try to absorb a portion of the increased costs and pass on the rest, not knowing if their customers will accept the price increases. In cases where increased costs cannot not be passed downstream, companies will be forced to reduce their workforce and place investments on hold.

Our industry features a wide variety of jobs, spanning from conceptualization to consumption of a product. The graphic below shows how the availability of affordable high-quality parts from foreign sources creates thousands of jobs that would be threatened by tariffs. The product development phase includes research and development, raw material sourcing, supply chain management, testing and validation, and marketing. Once manufacturing is complete and a product is imported into the U.S., it supports our transportation network and sales team before it is delivered to distributors, retailers, repair shops, consumers, or re-exported to international markets.



American companies depend on imports to remain competitive domestically and to export globally. The automotive industry's international footprint allows us to source and provide customers with high-quality, affordable parts. Without access to these foreign sources, American companies lose market share to companies that operate abroad and, since they are not subject to the tariff, are able to keep their costs low.

We believe that the imposition of tariffs on auto parts and components would cause severe economic harm to the industry, affecting profitability, sales, employment outlook and future investments.

2. U.S. Consumers and Families

The greatest impact from the administration's Section 301 tariffs on auto parts and components will be on U.S. consumers who will experience higher repair costs, likely leading to the delay of critical vehicle maintenance procedures that may result in serious highway safety concerns.

With the average age of a vehicle exceeding 11 years,[3] it is extremely important for the auto care industry to provide consumers with cost-effective options to repair aging vehicles. As explained above, a number of vehicle parts and components cannot be sourced in the U.S. and would be extremely cost-prohibitive if manufactured in the U.S.

For example, brake rotors are a critical component in a vehicle's braking system. Rotors are wear items that need to be replaced, along with brake pads, to ensure the safety of the driver and passengers, pedestrians and other vehicles on the road.

Over the past two decades, the U.S. brake industry has undergone major changes through mergers and acquisitions, bankruptcies and closures.[4] Currently, there are no known brake rotor manufacturers in the U.S., and although the domestic industry's production has ceased, U.S. demand has grown and will likely continue to grow due to the increasing number of vehicles on the road.

In 2017, the U.S. imported more than 72 million brake rotors from China, accounting for 78 percent of total brake rotor imports coming into the U.S.[5] See **Attachment A**. It is our understanding that the remaining brake rotor imports coming from the other countries are either original equipment parts for vehicle manufacturers or higher-priced premium grade brake rotors. China is the global supplier of economy-grade brake rotors for the everyday driver.

Considering that there are over 2,600 different part numbers in the brake rotor sector, there is no viable option to meet the demand, nor any source of the parts in the U.S. market for every year, make and model vehicle on the road. Therefore, regardless of any tariff imposed, brake rotors will continue to be imported.

[3] "2018 Digital Auto Care Factbook: 27th Edition," https://www.autocare.org/factbook18 at 62.
[4] Brake Rotors from China, Inv. No. 731-TA-744 (Second Review), USITC Pub. 4009 (June 2008) at 15.
[5] U.S. International Trade Commission Interactive Trade DataWeb (USITC DataWeb), using data retrieved from the U.S. Bureau of the Census (accessed August 16, 2018). See **Attachment A**.

Also of concern is the possibility that companies may attempt to source products away from known quality manufacturers and toward less experienced manufacturers. Failure to properly smelt the metals used on the rotors could result in cracks, and therefore brake failures that occur when motorists attempt to stop their vehicle.

A 25 percent tariff passed down the supply chain would likely increase the price of four brake rotors from $280 to close to $400 at the consumer level, not including brake pads and labor. And the number one reason why consumers delay service or repair on their vehicle? "Cost of the repair is too much."[6]

Imposing additional tariffs on these auto parts and components would increase the price substantially, delaying safety-critical repairs and making it difficult for working Americans to afford cost-effective options when repairing their vehicles.

3. *Retaliatory Actions*

In response to the administration's first round of Section 301 tariffs, we have already seen China retaliate with its own list of import tariffs on goods from the U.S. This type of back-and-forth trade war benefits no one in the end, and ultimately hurts American companies and working families.

China's large population and growing economy have made it one of the fastest-growing market for U.S. exporters in the last decade[7], including a $38 billion U.S. services trade surplus in 2016.[8] See **Attachment B**. 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.

"Made in China 2025" and Other Chinese Industrial Programs

Our members report that the auto parts and components included on the tariff list are commodity parts that do not require any advanced technology to produce. These are not research-and-development-intensive products and do not fit China's industrial policy, Made in 2025, targeting high-technology industries.

In the example shared above of brake rotors, there have been no significant changes in the production technology and currently there is no new technology on the horizon that would be at risk to China's industrial program.

[6] "2018 Digital Auto Care Factbook: 28th Edition," https://www.autocare.org/factbook19/ at 50.
[7] U.S. International Trade Commission Interactive Trade DataWeb (USITC DataWeb), using data retrieved from the U.S. Bureau of the Census (accessed Sept. 4, 2018). See **Attachment B**.
[8] "The People's Republic of China, U.S.-China Trade Facts," https://ustr.gov/countries-regions/china-mongolia-taiwan/peoples-republic-china (accessed Sept. 4, 2018).

There are a number of other automotive parts and components that do not fit the criteria but have been included on the Section 301 product list. We believe and hope that 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.

Efficacy of Proposed Section 301 Tariffs on China's Unfair Trade Practices

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. We do not believe the use of tariffs will influence or eliminate China's unfair trade practices related to forced technology.

As stated in Auto Care Association's comments submitted in the first Section 301 investigation,[9] we hope the administration will work toward a carefully constructed, rules-based bilateral trade agreement with a strong intellectual property rights protection system and fair trade environment for U.S. companies doing business in China.

Auto Care Association Policy Recommendations

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.

For the reasons above, we are requesting that USTR remove HTS codes related to automotive parts, components and repair services on the final list of products subject the Section 301 tariffs.

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/ William J. Hanvey
William J. Hanvey
President and CEO
Auto Care Association

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[9] Auto Care Association Comments Concerning Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property and Innovation, Docket No. USTR-2018-0005 (May 8, 2018).

Attachment A

ATTACHMENT A

Brake Rotors - 8708.30.5030: General First Unit of Quantity by Quantity Description and General First Unit of Quantity for ALL Countries

U.S. General Imports

Annual + Year-To-Date Data from Jan - Jun

Country	2013	2014	2015	2016	2017	2017 Market Share	2017 YTD	2018 YTD	Percent Change YTD2017 - YTD2018
	In Actual Units of Quantity								
China	55,005,577	66,060,689	71,318,805	71,200,497	72,757,678	78%	38,085,705	39,826,209	4.60%
Mexico	6,929,279	7,009,694	7,522,299	9,862,286	10,194,702	11%	5,068,568	5,140,243	1.40%
Canada	3,138,158	4,098,158	4,493,838	4,713,534	4,675,383	5%	2,417,118	2,354,153	-2.60%
Germany	2,280,770	2,221,214	2,531,558	2,567,561	2,102,708	2%	982,245	1,296,814	32.00%
Japan	1,484,693	2,535,691	2,519,408	2,406,973	1,856,196	2%	971,367	830,252	-14.50%
Poland	280,513	363,297	612,380	467,932	687,956	1%	401,366	268,475	-33.10%
Italy	515,523	547,551	443,017	532,699	290,625	0%	152,548	131,375	-13.90%
Brazil	380,735	331,488	227,984	258,748	253,429	0%	136,139	139,219	2.30%
Indonesia	79,890	131,472	237,212	163,151	180,348	0%	82,468	86,243	4.60%
Sweden	160,012	177,663	174,672	174,814	179,898	0%	90,579	95,762	5.70%
Korea	150,096	173,198	95,349	86,211	91,791	0%	47,429	75,606	59.40%
Taiwan	217,396	177,630	126,640	153,161	68,026	0%	26,483	34,104	28.80%
Spain	53,191	70,861	63,215	54,900	67,537	0%	37,892	29,913	-21.10%
Bosnia-Hercegov	83,766	83,665	113,005	101,361	51,013	0%	29,057	18,971	-34.70%
Egypt	90,634	87,674	72,741	65,285	42,047	0%	22,902	18,208	-20.50%
United Kingdom	30,658	34,802	34,078	28,955	35,123	0%	24,209	6,477	-73.20%
Austria	11,678	10,271	4,017	14,644	33,664	0%	16,267	30,707	88.80%
Czech Republic	83,084	34,778	28,970	27,364	29,856	0%	7,385	21,370	189.40%
Turkey	18,352	26,274	33,570	29,361	20,740	0%	12,924	12,373	-4.30%
India	28,756	38,913	18,244	34,297	17,432	0%	9,827	3,451	-64.90%
Australia	23,225	12,693	16,660	20,901	11,468	0%	6,683	6,340	-5.10%
Hong Kong	1	11,906	55,497	28,115	10,926	0%	3,832	0	-100.00%
Romania	4,926	6,719	12,635	23,843	10,007	0%	4,698	3,356	-28.60%
Thailand	6,907	86,147	50,944	14,061	9,128	0%	3,698	2,865	-22.50%
France	6,497	10,240	18,316	10,687	8,820	0%	3,605	2,596	-28.00%
Vietnam	42,893	2,940	81,225	4,924	4,580	0%	0	0	N/A
Denmark	11,233	3,308	2,316	2,071	4,357	0%	1,676	458	-72.70%
Serbia	2,404	3,255	312	600	2,856	0%	2,160	1,150	-46.80%
Slovak Republic	1,697	3,776	1,151	1,565	2,208	0%	197	1,211	514.70%
Slovenia	5,882	1,990	0	1,876	1,536	0%	1,536	0	-100.00%
Switzerland	11	0	888	0	629	0%	429	0	-100.00%
Costa Rica	0	0	0	4,724	480	0%	480	0	-100.00%
Sierra Leone	0	0	0	0	68	0%	68	0	-100.00%
Belgium	0	950	0	107	30	0%	0	151	N/A
South Africa	154	0	0	240	15	0%	15	483	3120.00%
Finland	4	0	3	50	14	0%	14	6	-57.10%
Bulgaria	0	0	0	0	13	0%	13	0	-100.00%
Netherlands	1,000	130	11	3	1	0%	1	68	6700.00%
Malaysia	0	24	0	0	0	0%	0	3,464	N/A
Marshall Is	0	9,344	0	0	0	0%	0	2,668	N/A
Lebanon	0	0	0	0	0	0%	0	0	N/A
Morocco	0	0	0	25	0	0%	0	0	N/A
Subtotal - number	71,130,595	84,368,757	90,910,960	93,057,678	93,703,288	100%	48,651,583	50,445,241	3.70%
All Other:	6,279	2,486	3,910	7,428	7,428		7,428	7,428	%
Total	71,136,874	84,371,243	90,914,870	93,065,106	93,710,716				

Sources: Data on this site have been compiled from tariff and trade data from the U.S. Department of Commerce and the U.S. International Trade Commission. Accessed August 16, 2018.

Attachment B

ATTACHMENT B

All Export Commodities: FAS Value by FAS Value
for ALL Countries - Top 15 Markets

U.S. Total Exports

Annual Data

Country	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	Percent Change 2008 - 2017	Percent Change 2016 - 2017
	In 1,000 Dollars											
Canada	260,914,364	204,728,094	249,256,459	281,291,531	292,650,534	300,754,869	312,816,950	280,855,169	266,734,465	282,265,135	8.18%	5.80%
Mexico	151,538,592	128,997,679	163,664,646	198,288,737	215,875,116	225,954,368	241,007,162	236,460,137	230,051,175	243,314,439	60.56%	5.80%
China	71,457,073	69,576,048	91,911,081	104,121,524	110,516,616	121,746,189	123,657,203	115,873,365	115,545,508	129,893,587	81.78%	12.40%
Japan	66,579,152	51,179,644	60,471,852	65,799,737	69,975,787	65,237,414	66,891,843	62,387,810	63,226,076	67,605,077	1.54%	6.90%
United Kingdom	53,775,110	45,713,722	48,410,311	56,033,108	54,860,484	47,361,236	53,913,170	56,094,706	55,169,323	56,257,923	4.62%	2.00%
Germany	54,732,310	43,298,596	48,155,263	49,294,189	48,802,969	47,363,466	49,418,841	49,978,834	49,432,134	53,896,753	-1.53%	9.00%
Korea	34,807,351	28,639,972	38,820,637	43,461,636	42,282,565	41,648,728	44,649,563	43,483,975	42,312,662	48,326,409	38.84%	14.20%
Netherlands	40,223,134	32,347,021	34,740,302	42,227,119	40,618,287	42,577,045	43,141,223	40,211,652	39,605,129	41,510,333	3.20%	4.80%
Hong Kong	21,633,365	21,118,501	26,570,451	36,398,785	37,471,809	42,332,233	40,913,401	37,182,747	34,895,199	39,939,130	84.62%	14.50%
Brazil	32,910,058	26,175,324	35,417,674	43,018,839	43,771,278	44,105,507	42,431,727	31,640,538	30,066,298	37,221,566	13.10%	23.80%
France	29,186,901	26,522,336	26,969,952	27,856,814	30,812,884	31,743,718	31,289,479	30,026,310	31,153,274	33,595,514	15.10%	7.80%
Belgium	29,026,414	21,629,719	25,457,983	29,990,464	29,438,361	31,840,186	34,736,300	34,173,801	32,100,693	29,923,692	3.09%	-6.80%
Singapore	28,809,737	22,278,512	29,008,615	31,282,363	30,523,215	30,665,030	30,067,830	28,480,840	26,831,601	29,805,915	3.46%	11.10%
Taiwan	25,279,406	18,432,354	26,050,037	25,932,498	24,337,098	25,522,769	26,675,061	25,826,013	26,034,343	25,729,504	1.78%	-1.20%
India	18,666,542	16,462,437	19,248,887	21,542,184	22,105,738	21,810,448	21,499,085	21,452,908	21,635,671	25,688,862	37.62%	18.70%
Subtotal :	919,539,508	757,099,959	924,154,151	1,056,539,528	1,094,042,740	1,120,663,206	1,163,108,840	1,094,128,805	1,064,793,550	1,144,973,840	24.52%	7.50%
All Other:	380,596,142	299,832,017	354,340,375	425,968,228	451,778,100	457,853,674	458,764,952	409,199,544	386,229,980	401,299,121	5.44%	3.90%
Total	**1,300,135,650**	**1,056,931,976**	**1,278,494,526**	**1,482,507,755**	**1,545,820,840**	**1,578,516,880**	**1,621,873,793**	**1,503,328,350**	**1,451,023,530**	**1,546,272,961**	18.93%	**6.60%**

Sources: Data on this site have been compiled from tariff and trade data from the U.S. Department of Commerce and the U.S. International Trade Commission. Accessed Sept. 4, 2018.