

*Submitted via www.regulations.gov  
Docket No. USTR-2019-0004*

June 17, 2019

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 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 notice of public hearing published in the *Federal Register* on May 17, 2019.<sup>1</sup>

We hope our submission will assist the USTR 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, accessories, tools, equipment, materials, supplies and services. Auto Care Association

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<sup>1</sup> *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*, 84 Fed. Reg. 22564 (May 17, 2019).

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.

### **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; this is expected to reach \$433.3 billion in 2021.<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 280.6 million cars and trucks on U.S. roads today.<sup>3</sup>

### **Automotive Parts and Components for the Aftermarket**

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.

While we agree that these practices jeopardize U.S. businesses' trade secrets, intellectual property and global competitiveness, our industry relies on imports from foreign sources through a complex global network of suppliers and even smaller sub-suppliers to be able to provide customers with high-quality, affordable parts.

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<sup>2</sup> "2019 Digital Auto Care Factbook: 28<sup>th</sup> Edition," <https://www.autocare.org/factbook19> at 4, 12.

<sup>3</sup> Id at 62.

In the auto sector, an original equipment manufacturer (or OEM) can set up a dedicated plant to produce a few parts in several million units over longer lead times.

The auto care industry has thousands of SKUs to provide parts to service and repair every year, make and model of vehicle on U.S. roads today. In other words, aftermarket production is broad-range, low-volume and limited runs due to the number of unique parts in each category for each type of vehicle.

Access to imports allows American companies to remain competitive domestically, while offering U.S. consumers a broader selection of cost-effective parts to maintain and repair their vehicles.

### **Section 301 Tariff Impact on U.S. Auto Care Industry**

Our members are facing several challenges as a result of the Section 301 tariffs from the first three tranches as outlined below. We expect more member companies to face the same challenges if additional tariffs are imposed on auto parts in this fourth tranche.

#### *1. Manufacturing in China*

As we have previously testified, China is a critical trading partner in our industry's supply chain. Our members have built and developed relationships with suppliers in China over many, many years to ensure products meet a high standard of safety and quality.

One member reported, "While things are never perfect, our Chinese vendors generally produce products to specification and ship on schedule. China has the necessary infrastructure and capacity to handle the demand of U.S. importers. When looking outside of China, product lead times and logistics become much more of a challenge."

Some of our members have been successful in sourcing certain products outside of China at an overall higher cost, but lower than sourcing from China considering the tariffs. Others have reported challenges in other low-cost countries, such as the absence of material supply, infrastructure and logistics to easily produce and move product. Additionally, it is difficult to find supply chains that are deep enough and flexible enough to handle broad ranges and relatively small volumes of highly technical parts.

Attempting to redevelop and retool each individual part and move manufacturing out of China to another country or back to the U.S. would require a tremendous amount of capital and years to redevelop. For example, it could take six to 18 months and likely several years to just to find and qualify a new source. As one member pointed out, "We sell a safety item

and we have a responsibility to diligently review any new factory partners to make sure they are producing a safe product.”

As we explained before, “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.”<sup>4</sup>

In some cases, it is both time- and cost-prohibitive to source domestically or from another country at the same quality and volume needed to meet demand. Therefore, many companies will have no choice but to continue manufacturing in China.

## *2. Reduced Profits and Decreased Demand for Products*

Section 301 tariffs from the first three tranches have been a major disruption factor to our industry’s supply chains, from the manufacturer down to the installer.

Many members who try to increase prices and pass down tariff-related costs to their distribution customers are met with strong resistance, forcing them to absorb the increase and thereby placing a heavy financial strain on their bottom line. One member reported a significant decrease in demand for their products, possibly due to uncertainty of the future and customers’ unwillingness to take on inventory at inflated prices.

As we reach the anniversary of the first Section 301 tariffs in July, some retailers are just beginning to accept cost increases passing through the supply chain, and are passing on those price increases to the end consumer. As prices increase, not only are American jobs lost, but safety-critical maintenance is deferred, thus making American roads less safe. We expect consumer prices to continue to rise as the industry starts to feel the impact from the second, third and now possibly fourth tranche.

Margin pressure and the cash flow impact of financing the tariff are causing severe financial stress. Many suppliers pay a 25% tariff when goods enter the country, but do not get paid by customers until the product is sold 360 days later. Additionally, companies now have to increase continuous import bond levels to cover additional tariff costs, significantly increasing import costs beyond the tariffs. Failure to maintain sufficient bond levels can prevent U.S. Customs and Border Protection from releasing cargo at U.S. ports.

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<sup>4</sup> ,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” at 3 (Sept. 6, 2018).

At the same time, the demand to enter cargo before tariff dates in the first three tranches significantly increased ocean freight costs compounded by state-side logistics with truck driver shortages.

The continued uncertainty and ambiguity of the future are having a large negative impact on profits and cash flow, and an overall slowdown in the establishment of new customer relationships and long-term sourcing determinations.

### *3. Burden on Company Resources*

Impact of the Section 301 tariffs extends far beyond just the cost of the tariff. Nearly all of our members have reported the burden that the tariffs are having on the utilization of a company's resources.

In addition to Section 301 tariffs on imports from China, our industry also faces Section 232 tariffs on imported steel and aluminum and the looming Section 232 tariffs on imported auto parts.

According to a member, "Understanding the impact has consumed resources in purchasing, product management, sales and customer service functions that otherwise would be devoted to growing the business."

Another member reported their "purchasing department has spent almost all of their time in the last year trying to negotiate better pricing from our Chinese sources to try to mitigate the tariffs, as well as working to establish new vendors outside of China. The process of evaluating new sources outside of China has taken up most of the resources in our quality control and logistics departments."

The industry has devoted countless hours to understanding and navigating the tariffs. They have had major impacts on entire business systems and have caused companies to refocus and take a strategic approach on how to remain competitive.

### **Section 301 Tariff Impact on U.S. Consumers and Families**

The average age of a vehicle on U.S. roads today is 11 years.<sup>5</sup> It is extremely important for consumers to have access to a broad selection of cost-effective options to repair aging vehicles. The price increases for repairs due to the tariffs are hitting low- and middle-income consumers the hardest, forcing difficult choices as to whether to obtain needed

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<sup>5</sup> "2019 Digital Auto Care Factbook: 27<sup>th</sup> Edition," <https://www.autocare.org/factbook18> at 62.

repairs to their vehicle, or delay them in order to make other needed purchases for their family. These decisions could have serious implications for highway safety.

### **Conclusion**

The auto industry has an international footprint and it depends on imports to remain competitive domestically and to export globally. We urge the 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 the Auto Care Association's comments submitted in the first Section 301 investigation,<sup>6</sup> 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.

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 Hanvey  
William Hanvey  
President and CEO  
**Auto Care Association**

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<sup>6</sup> 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).