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Telecommunications Industry Association

Request for Public Comment
From the Office of the U.S. Trade Representative

Concerning Proposed Determination of Action Pursuant to Section 301:
China's Acts, Policies, and Practices
Related to Technology Transfer, Intellectual Property, and Innovation

Docket Number USTR-2018-0005
May 11, 2018

The Telecommunications Industry Association (TIA) appreciates the opportunity to comment on the "Proposed Determination of Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation."

TIA represents approximately 250 manufacturers and suppliers of global communications networks in the United States and around the world. TIA is also an ANSI-accredited standards development organization.

TIA commends the Office of the U.S. Trade Representative (USTR) on the comprehensive and detailed recent report outlining its findings from the Section 301 investigation. That report outlined in detail the complex web of state policies, standards and subsidies that put non-Chinese information and communications technology (ICT) companies at a severe disadvantage in the Chinese market. We fully endorse USTR's conclusion that Chinese trade practices related to technology transfer, intellectual property, and innovation are unreasonable and discriminatory.

But while we support the rigorous analysis of the Section 301 report, we are compelled to register strong opposition to the proposed remedy of tariffs, and call on the government to reconsider such use.

We have attached to this document an annex of items used in the telecom equipment industry that appear on the proposed draft tariff list. We strongly urge the government to remove these products from the list. Below is a summary of our concerns on tariffs on ICT products, with supporting details to follow:

- Tariffs on ICT components from China will hurt advanced U.S. technology manufacturing. The draft tariff list currently includes a number of components used to manufacture leading-edge telecom products in the U.S. A 25 percent increase in the cost of inputs will increase costs for advanced technology manufacturing, where the U.S. currently enjoys an advantage over much of the rest of the world. In a highly competitive ICT industry, new duties on tech components will create a perverse incentive for firms to outsource advanced manufacturing from the United

States. The result: Administration actions intended to counter unfair Chinese policies might paradoxically result in American job losses.

- Taxes on ICT goods hurt traditional industries, not just technology firms. There are particular risks in imposing duties on ICT-related inputs, because a wide variety of traditional American industries – from farming to manufacturing to banking – have come to rely on digital infrastructure as an essential productivity tool. Assuming U.S. firms had to raise prices as a result of increased component costs, the resulting higher price tags for internet and other telecom products would needlessly raise the cost of connectivity for a broad array of U.S. business as well as consumers.

In the text that follows, we discuss these points in greater detail.

I. Tariffs on ICT components from China will hurt advanced U.S. technology manufacturing.

In his August 2017 memo announcing the Section 301 investigation, President Trump said the goals of U.S. trade policy include "enhanc[ing] economic growth" and "strengthen[ing] our American manufacturing base." Yet by raising component costs by 25 percent, the proposed imposition of duties stands to make American-made goods more expensive and potentially put U.S. technology manufacturing jobs at risk. This action would hurt the very constituents it was intended to help. Moreover, the geographic impact of tariffs is broad; according to input we have gathered from TIA members, the proposed duties will impact technology manufacturing across a range of states including Alabama, Maryland, Florida, Texas, California, South Carolina and Illinois.

Many TIA members have opted to retain their technologically advanced manufacturing facilities in the U.S. while sourcing lower-value technology inputs from China. The inclusion on the draft tariff list of a wide array of imported electronic parts and sub-assemblies presents these companies with an unwelcome choice. They can write off the cost themselves, damaging their profit margins. Or they can pass on the associated higher prices to their customers, making American-made goods less globally competitive.

In some cases, items on the draft tariff list are only available from Chinese sources. Assuming tariffs were imposed for some length of time, it is of course possible that new vendors from other countries may eventually enter the market. But in the absence of competition from China, they would likely be able to charge higher prices for components, creating longer-term market disruptions.

Below, we have listed seven examples of how imposing tariffs on items on the draft tariff list would hurt the ICT industry in the United States.

1) Some of the products on the draft tariff list are widely used within U.S. electronics manufacturing. An example is capacitors, a component that stores an electrical charge and is considered essential for the operation of all electronic circuits. The draft tariff list includes at least a dozen types of capacitors, for which there are no alternatives. Levying a fee on these inputs will affect a wide array of American manufacturers.

   For example, one TIA member uses capacitors in the manufacturing of satellite equipment known as very small aperture terminals, or VSATs. Adding a 25 percent tariff onto these

components would unnecessarily drive up costs for highly advanced technology production that takes place in this company's U.S. manufacturing facilities.

2) A second TIA member imports capacitors as well as other items on the tariff list including resisters, diodes and fuses. These inputs are used in the U.S. manufacturing of sophisticated telecom technologies such as multi-service access nodes, access routers and optical networking terminals. The proposed new duty on these items will raise input costs significantly for the firm's American factory, which employs approximately 400 people and has been awarded the title of "manufacturer of the year" in its home state.

3) Cable assemblies are also essential components for the U.S. ICT industry. Many of these products are specialized for use in data centers, which house the infrastructure that supports most of the world's internet traffic as well as wireless applications and data storage. Cable assemblies, while often assembled and sourced from China, feature key components that are made in America. Levying a 25 percent tariff on these products will negatively affect U.S. telecom equipment manufacturers that supply the rapidly expanding data center industry.

4) Other TIA members source hard disk drives and non-magnetic drives – both of which appear on the draft tariff list – to use in the U.S.-based manufacturing of leading-edge servers and storage solutions. The servers and storage solutions in turn are used to power data centers, so any increase in their cost stands to burden U.S. data center operations.

5) One other category of products on the tariff list, monitoring and testing equipment, is critical to the ICT industry in the U.S. Monitoring and testing gear is essential for advanced R&D and manufacturing and testing that takes place on American soil. Raising the cost of these goods will merely serve to impose an avoidable burden on the most innovative ICT companies in the U.S.

6) Not only will tariffs impose new costs for U.S. ICT manufacturers, but in some cases they are likely to benefit firms outside the U.S. For example, one TIA member has developed an innovative version of a mobile phone component known as technology filters (surface acoustic wave, or SAW, and bulk acoustic wave, or BAW). These items support the wide range of frequency bands that are deployed in networks across the globe.

   Imposing a tariff on such products, a vital component in handsets, will incur millions of dollars in unnecessary costs for a U.S. company. Even worse, it will effectively benefit companies in other countries that sell competing products. Because the foreign products will not be subject to tariffs, they will essentially become available at a discount relative to U.S. goods. In short, the proposed duty will help foreign manufacturers at the expense of a U.S. company.

7) Along similar lines, another TIA member imports components on the draft tariff list including liquid crystal displays (LCDs), switches and aluminum fixed capacitors. These components are assembled into security communications and video equipment in the U.S., including radios and CCTV used in enterprise security. In this case, the products compete directly with finished products manufactured in China.

In authorizing the Section 301 investigation, the August Presidential memo cited concerns that objectionable Chinese trade policies "might inhibit United States exports…and otherwise undermine American manufacturing…" Yet if tariffs are put into effect as drafted, the higher costs associated with

tariffs might very well end up impeding U.S. exports and impairing the competitiveness of American manufacturing. In short, the proposed trade remedy risks creating some of the problems it was intended to fix.

To put U.S. actions in context, recall that Beijing has not only set a goal of building China into a world-leading manufacturing power, but also, through its Made in China 2025 plan, has prescribed better financial support and financing to help achieve that goal. For example, a key Chinese State Council circular on the plan includes an exhortation to "expand financing channels for the manufacturing sector[1]" and "give greater support for key sectors such as new generation IT, high-end equipment and new materials."

At a time Beijing is actively aiding the development of high-end Chinese production through state subsidies, we would urge the U.S. government not to handicap U.S. technology manufacturing through counter-productive duties.

II. Taxes on ICT goods hurt traditional industries, not just technology firms.

In the Federal Register notice announcing the draft tariffs, USTR said it had sought to remove from the list "specific products identified by analysts as likely to cause disruptions to the U.S. economy." While we appreciate efforts made in that regard, we would submit that the proposed duties on ICT inputs are indeed likely to create economic disruptions because digital infrastructure is so fundamental to American business productivity. In that sense, the reverberations of the proposed tariffs will be felt far beyond equipment suppliers.

To take one example, consider that the U.S. maintains a global trade surplus in services (of $243 billion in 2017, according to the Census Bureau[2]). Trade in ICT-enabled services is growing especially fast, up 20 percent a year from 2011 to 2016, according to the Information Technology and Innovation Foundation (ITIF)[3]. In light of this trend, it would seem only reasonable to avoid raising the costs of the infrastructure that supports digital services.

We would also highlight the adoption of ICT in a growing number of traditional industries, from sensors that gauge wear and tear on equipment used in manufacturing to devices that monitor soil quality in agriculture. In short, digital infrastructure has become an important tool used across the U.S. economy to make both small and big companies more efficient. Taxing components used in telecom networks may have an unintended negative impact on industries far removed from the core suppliers themselves.

For all these reasons, we would urge the U.S. government, as it seeks to force an end to China's unfair trade practices, to consider alternative remedies to tariffs and to refrain from imposing tariffs on the ICT components cited in the following annex.

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[1] Circular of the State Council on Distributing the "China Manufacturing 2025" Plan, May 29, 2015, at 30.
[2] https://www.census.gov/foreign-trade/Press-Release/current_press_release/ft900.pdf
[3] "Why Tariffs on Chinese ICT Imports Would Harm the U.S. Economy," Information Technology and Innovation Foundation (ITIF), March 2018, at 2.

ANNEX

LIST OF HTS CODES REQUESTED FOR REMOVAL FROM DRAFT TARIFF LIST

HTS Code	Product Description
84717040	Hard drives
84717060	Non-magnetic drives
84717090	Solid state drives
85011040	Electric motors of an output of under 18.65W, other than synchronous valued not over $4 each
85256010	Transceivers
85299068	Parts of printed circuit assemblies (including face plates and lock latches) for television apparatus other than television cameras
85291040	Radar, radio navigational aid and radio remote control antennas and antenna reflectors
85299099	Parts suitable for use solely or principally with the apparatus of headings 8525 to 8528, nesi
85321000	Fixed electrical capacitors
85322100	Tantalum fixed capacitors
85322200	Aluminum electrolytic fixed capacitors
85322300	Ceramic dielectric fixed capacitors, single layer
85322400	Ceramic dielectric fixed capacitors, multilayer
85322500	Dielectric fixed capacitors of paper or plastics
85322900	Fixed electrical capacitors, nesi
85323000	Variable or adjustable (pre-set) electrical capacitors
8532210050	Tantalum
85322200	Aluminum electrolytic fixed capacitors
8532220020	Aluminum electrolytic fixed capacitors
8532240020	Ceramic dielectric fixed capacitors, multilayer
8532250070	Dielectric fixed capacitors of paper or plastics
85331000	Electrical fixed carbon resistors, composition or film types
85332100	Electrical fixed resistors, other
8533210030	Electrical fixed resistors, other than composition or film type carbon resistors, for a power handling capacity not exceeding 20 W
85332900	Electrical fixed resistors, other
85333100	Electrical wirewound variable resistors
85334040	Metal oxide resistors
85334080	Electrical variable resistors, other
8533408070	Electrical variable resistors, other than wirewound, including rheostats and potentiometers
8536100020	Fuses, for a voltage not exceeding 1,000 V
8536100040	Fuses
8536200020	Automatic circuit breakers, for a voltage not exceeding 1,000 V
8536410020	Relays for switching, protecting or making connections to or in electrical circuits, for a voltage not exceeding 60 V

85365090	Switches nesoi, for switching or making connections to or in electrical circuits, for a voltage not exceeding 1,000 V
85366940	Connectors: coaxial
8536694051	Power connection units
85369085	Other electrical apparatus nesi, for switching or making connections to or in electrical circuits, for a voltage not exceeding 1,000 V, nesoi
8536908585	Other electrical apparatus nesi, for switching or making connections to or in electrical circuits, for a voltage not exceeding 1,000 V, nesoi
85366940	Connectors: coaxial, cylindrical multicontact, rack and panel, printed circuit, ribbon or flat cable, for a voltage not exceeding 1,000 V
8536694010	Connectors: coaxial, cylindrical multicontact, rack and panel, printed circuit, ribbon or flat cable, for a voltage not exceeding 1,000 V
8536694040	Connectors: coaxial, cylindrical multicontact, rack and panel, printed circuit, ribbon or flat cable, for a voltage not exceeding 1,000 V
85389081	Other parts nesi, suitable for use solely or principally with the apparatus of heading 8535, 8536 or 8537
8541290040	Transistors, other than photosensitive transistors, with a dissipation rating of 1 W or more
8541290095	Transistors, other than photosensitive transistors, with a dissipation rating of 1 W or more
8541300040	Thyristors, diacs and triacs, other than photosensitive devices
85414020	Light-emitting diodes (LEDs)
8541407040	Photosensitive transistors
8541408000	Photosensitive semiconductor devices nesi, optical coupled isolators
85415000	Semiconductor devices other than photosensitive semiconductor devices, nesi
85416000	Technology filters (surface acoustic wave, or SAW, and bulk acoustic wave, or BAW)
85416000	Mounted piezoelectric crystals
8541600050	Mounted piezoelectric crystals
8541600060	Mounted piezoelectric crystals
8544110030	Insulated (including enameled or anodized) winding wire, of copper
8544700000	Optical fiber cables made up of individually sheathed fibers
8544700000	Cable assemblies
90138070	Liquid crystal and other optical flat panel displays other than for articles of heading 8528, nesoi
90304000	Machines for measuring, checking electrical quantities specifically designed for telecommunications
90308200	Machines for measuring, checking electrical quantities, for semiconductor wafers/devices
90309066	Parts of machines for measuring, checking electrical quantities specifically designed for telecommunications
90309084	Parts of machines for measuring, checking electrical quantities, for semiconductor wafers/devices
90309089	Basket parts of for machines for measuring, checking electrical quantities
90318080	Measuring and checking instruments, appliance, and machines not specified elsewhere it the chapter
90319091	Parts of measuring and checking instruments, appliance, and machines not specified elsewhere it the chapter