May 11, 2018

The Honorable Robert Lighthizer
United States Trade Representative
Office of the United States Trade Representative
600 17th St, NW
Washington, DC 20006

Via Electronic Filing at http://www.regulations.gov

RE: 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, Docket No. USTR-2018-0005

Dear Ambassador Lighthizer:

The National Association of Chemical Distributors (NACD) submits the following comments in response to the Office of the United States Trade Representative (USTR) request for public comment regarding Docket No. USTR-2018-0005, 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.

About NACD

NACD is an international association of nearly 440 chemical distributors and their supply-chain partners. NACD members represent more than 85% of the chemical distribution capacity in the nation and generate 93% of the industry's gross revenue. NACD members, operating in all 50 states through nearly 1,800 facilities, are responsible for more than 155,000 direct and indirect jobs in the United States. NACD members are predominantly small regional businesses, many of which are multi-generational and family owned.

NACD members meet the highest standards in safety and performance through mandatory participation in NACD Responsible Distribution®, the association's third-party-verified environmental, health, safety, and security program. Through Responsible Distribution, NACD members demonstrate their commitment to continuous performance improvement in every phase of chemical storage, handling, transportation, and disposal operations.

NACD Members Depend on Chemical Imports to Meet U.S. Customer Demand

USTR has proposed to use Section 301 of the 1974 Trade Act to add an additional 25% tariff on over 1,000 products, including consumer goods, aerospace, chemicals, machinery, and more. These tariffs are intended to impose a total of $50 billion in costs on Chinese goods imported into the U.S. Less than a month later, the Chinese government announced they are placing tariffs on 128 U.S. products in retaliation, setting the stage for a back and forth escalation.

NACD is concerned with the impact the escalation of trade tensions with China could have upon U.S. chemical distributors and U.S. importers overall. Many of our member companies import chemicals from other countries and use significant resources to source products from China, often with longstanding suppliers. Several of our member companies have businesses that are structured to rely on purchasing imported chemicals to meet customer demand. Chemical imports go into agricultural, industrial, food, cosmetic, and medical applications. Additionally, some chemical distributors import chemicals from China that are then re-exported to other customers around the world.

For companies wishing to avoid the tariffs by switching to a new supplier in a different country, the path is not easy. Importers of products will have to take considerable time and effort to develop relationships, conduct due diligence, and establish business terms even before the first shipment from the new supplier can take place. Small businesses would be especially hurt by the additional tariffs. Smaller businesses lack the capital to absorb the tariffs and cannot quickly identify and develop relationships with new suppliers.

In early April, President Trump directed USTR to consider an additional $100 billion of tariffs on top of the $50 billion that USTR is already proposing. NACD strongly opposes the initial tariff proposal, and additional tariffs would exacerbate the situation. Any tariffs upon these proposed goods would result in higher prices for American consumers, higher costs for U.S. manufacturers, decreased demand for U.S. exports, and ultimately result in fewer jobs for American workers.

NACD Recommends that USTR Remove the Following Tariffs From The Proposed List

According to an analysis by John Dunham & Associates commissioned by NACD, last year the United States imported about $10.6 billion worth of chemical products from China under Harmonized Tariff Schedule (HTS) codes 28, 29, and 30. Of the HTS codes listed on the proposed tariffs, 86 are chemical products falling under HTS code 28, 29, or 30. These 86 products account for about $690.5 million worth of the $10.6 billion total.

Although many of the chemicals included under the proposed tariffs in HTS codes 28, 29, and 30 are essential to U.S. manufacturing and other markets, NACD specifically recommends excluding the following six HTS codes due to their direct and certain impact upon NACD members.

HTS Code	Product Description
2914.62.00	Coenzyme Q10 (ubidecarenone (INN)
2922.19.96	Amino-alcohols, other than those containing more than one kind of oxygen function, their ethers and esters and salts thereof, nesoi
2922.50.13	Isoetharine hydrochloride and other specified aromatic drugs of amino-compounds with oxygen function

2932.99.61	Aromatic Heterocyclic compound with oxygen hetero-atom(s) only described in additional U.S. note 3 to section VI, nesoi
3004.20.00	Medicaments containing antibiotics, nesoi, in dosage form or packed for retail
3004.90.10	Medicaments containing antigens or hyaluronic acid or its sodium salt, nesoi, in dosage form or packed for retail

Imposing these additional duties on chemical products would not be practicable or effective to obtain the elimination of China's acts, policies, and practices. In fact, the prices of chemical products overall from China have already increased within the past few years due to significant efforts by the Chinese government to improve environmental safety. Several factories that were previously producing chemical products in China have been shut down due to environmental violations as China attempts to solve its problems related to air pollution. Despite the commendable goal, the result has been increasing prices and pressure on U.S. importers due to lack of supply in China. Adding additional tariffs on top of already increasing prices would result in significant hardship upon the chemical industry, and the costs would be passed on to every market into which the chemical industry sells.

<u>Conclusion</u>

NACD appreciates the opportunity to submit feedback on USTR's request for comment. We strongly recommend USTR remove the above HTS codes from consideration and find alternate approaches to address the "law, policies, practices or actions of the Government of China that may be unreasonable or discriminatory and that may be harming American intellectual property rights, innovation, or technology development." USTR's Section 301 proposed tariffs will not deter China from its current course of action when it comes to violation of U.S. intellectual property and technology development and, instead, will only hurt U.S. consumers and businesses. USTR should examine other methods that do not involve additional tariffs nor damage beneficial trading relationships.

Thank you for the opportunity to comment on USTR's notice of determination. If you have questions or need additional information, please do not hesitate to contact me.

Sincerely,

Jennifer C. Gibson
Vice President, Regulatory Affairs