

AMERICAN WIRE PRODUCERS ASSOCIATION

China Section 301 Summary

INTRODUCTION

On August 18, 2017 the US Trade Representative (USTR) initiated an investigation of China's **intellectual property (IP) practices** under Section 301 of the US Trade Laws. This was the first Section 301 filed since 1997. The USTR must determine if Chinese IP practices are 'Unreasonable or Discriminatory and Burden or Restrict US Commerce.'

Where the USTR makes an affirmative determination under Section 301, it may:

- Suspend or withdraw trade concessions;
- Impose duties or other import restrictions;
- Withdraw, limit or suspend benefits under the various trade preference programs;
- Negotiate agreements to eliminate or phase out the violation and/or provide compensation for trade distortion.

The investigation's 200-page report found that China:

- Uses investment restrictions (such as joint venture requirements and ownership caps) and administrative licensing procedures to require or pressure technology transfer;
- Imposes restrictions on technology licensing terms that deprive US technology firms of fair market value;
- Directs and facilitates the systematic investment in, and acquisition of, US companies and assets by Chinese companies to obtain cutting-edge technologies and IP; and
- Conducts and supports cyber-hacking and cyber-theft into computer networks of US companies to gain access to IP, trade secrets, or confidential business information.

On March 22, 2018, President Trump signed an executive order directing USTR to impose tariffs on \$50-60 billion of imports from China based on findings of IP theft and technology. Other remedies included plans to restrict Chinese investment in US high-tech industries and to file a WTO case against discriminatory licensing practices. The USTR filed a request for consultations with China at the WTO to address China's discriminatory technology licensing requirements.

On April 3, USTR formally released a proposed list of products on which tariffs would be imposed. A 25% tariff would be applied to roughly \$50 billion of Chinese imports in these product categories, equivalent to \$12.5 billion in tariff revenues. On April 4, China responded by proposing 25 percent retaliatory tariffs on \$50 billion of US exports to China and on April 5, filed a WTO case challenging USTR's 301 tariffs. On April 6, Trump announced possible tariffs on an additional \$100 billion in imports from China.

The only wire industry products on the proposed list are:

72171070 Iron/nonalloy steel, flat wire, w/0.25% or more carbon, not plated or coated
72230090 Stainless steel, wire (other than round or flat wire)

72299010 Alloy steel (o/than hi-speed/silica-mango), flat wire
73181600 Iron or steel, nuts
73202010 Iron or steel, helical springs, suitable for motor-vehicle suspension
73202050 Iron or steel, helical springs (o/than suitable for motor-vehicle suspension)

Public Comments to USTR

May 11 – Comments Due to USTR

AWPA submitted comments, which requested that Wire and Wire Products be added to the list of imported products from China, which may be subject to the proposed additional tariff of 25%.

USTR requested comments with respect to any aspect of the proposed action, including:

- The specific products to be subject to increased duties, including whether products listed in the Annex should be retained or removed, or whether products not currently on the list should be added.
- The level of the increase, if any, in the rate of duty.
- The appropriate aggregate level of trade to be covered by additional duties.

The notice specifically noted that requests to add or removing products should include language stating whether imposing increased duties on a given product would be “practicable or effective to obtain the elimination of China’s acts, policies, and practices” as well as whether applying tariffs on a given product “would cause disproportionate economic harm to US interests, including small- or medium-size businesses and consumers.”

May 15-16 – USTR Hearing on Section 301

The Office of the US Trade Representative (USTR) sought public comment and held two days of public hearings regarding the proposed additional duty of 25 percent on a list of products from China.

White House Announces Plans, Timelines on China 301 Tariffs, Investment Restrictions

On May 31, 2018 the White House announced renewed plans to impose tariffs and investment restrictions that had been previously proposed pursuant to its Section 301 investigation of Chinese intellectual property (IP) theft. This move came just about a week after remarks from Treasury Secretary Steven Mnuchin that the tariffs would be “stayed” following bilateral negotiations and the issuance of this joint U.S.-Chinese statement.

The White House’s statement indicates that the Administration:

- The United States will impose a 25 percent tariff on \$50 billion of goods imported from China containing industrially significant technology, including those related to the “Made in China 2025” program. The final list of covered imports will be announced by June 15, 2018.

- USTR will continue WTO dispute settlement against China originally initiated in March to address China's discriminatory technology licensing requirements.
- The United States will implement specific investment restrictions and enhanced export controls for Chinese persons and entities related to the acquisition of industrially significant technology. The list of restrictions and controls will be announced by June 30, 2018.