



The Honorable Robert Lighthizer
United States Trade Representative
Office of the United States Trade Representative
600 17th Street NW
Washington, DC 20508
Via Electronic Submission – www.regulations.gov

May 11, 2018

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,

We write today on behalf of a broad range of U.S. energy interests—spanning technologies and services in the energy efficiency, energy storage, demand response, information technology, manufacturing, natural gas, renewable energy and sustainable transportation sectors—to express our concern with the potential negative effects on the clean energy industry of tariffs to address China’s unfair trade practices with the United States. We agree with the substantial problems of China’s ongoing violation on intellectual property (IP) rights, and support efforts to stop anti-competitive practices that harm American businesses and our economic competitiveness. We are concerned, however, that the proposed tariff list – and proposals to increase and broaden tariffs – will not advance the goal of changing these harmful practices. Conversely, the proposed tariffs will harm the administration’s goal of establishing energy dominance by increasing the cost of energy for American households and businesses, decreasing domestic manufacturing of energy-efficient products, including electric vehicles, and hurting American clean energy innovation.

The United States is transitioning to a truly modern, integrated power system. U.S. energy productivity is surging, and today we are generating twice as much gross domestic product per unit of energy consumed than in 1980.¹ A healthy, robust, and competitive U.S. clean energy industry is an indispensable element of a stronger economy that creates jobs and encourages innovation. It is critical that we continue to invest in and upgrade to a modern, 21st century energy infrastructure to bolster continued growth and prosperity.

U.S. trade policy should support the broad growth of American clean and advanced energy and energy efficiency resources. Currently, the clean energy industry represents \$200 billion of economic activity,

¹ In 1980, the U.S. consumed 78 quads (quadrillion British thermal units (BTUs)) while GDP was \$6.4 trillion, which produces an energy productivity ratio of 82.6. This compares to energy productivity of 176.4 in 2017 (i.e., 96.8 quads and GDP of \$17 trillion). Energy consumption data is from the Energy Information Administration. GDP (real dollars, 2009) is provided by the Bureau of Economic Analysis.

employs more than 3 million workers across the country and energy efficiency has saved the United States more than \$800 billion since 1980.² The U.S. clean energy industry delivers lower costs for American businesses and households while ensuring a reliable and affordable electric grid for our nation and improving consumer choice. As a world leader in clean energy technological innovation and manufacturing, ensuring low barriers to trade in advanced energy and energy-efficient products and services naturally privileges the U.S. private sector, creating larger markets for U.S. goods and deepening economic prosperity.

The tariffs, as proposed, would slow or reverse the upward trend of energy productivity by increasing costs for homeowners, consumers, and businesses, and hinder the growth of the U.S. advanced and clean energy and energy efficiency sectors. Specifically, the inclusion of light-emitting diodes (LEDs), automatic thermostats, appliances and components such as compressors (used in equipment and heating, ventilation, and air conditioning (HVAC)), building control system components (including occupancy sensors), electric power generating sets, and parts and products related to the production of electric vehicles would be counter to the administration's stated goals for a more energy-secure economy.

The proposed tariffs would have a negative impact on American homeowners, consumers, and businesses. Smart thermostats help homeowners and renters lower monthly utility bills by up to 12 percent on heating and 15 percent on cooling.³ Energy-efficient home and commercial appliances and equipment, especially those certified by ENERGY STAR®, provide homeowners, consumers, and businesses a range of options, choices, and features that generate cost-effective savings for the lifetime of the products. ENERGY STAR®-certified LEDs use at least 75 percent less energy and last 25 times longer than incandescent lighting. Commercial building owners and managers rely on sophisticated building control system technologies to manage and optimize energy consumption, improve tenant comfort and productivity, and even interact with the grid at times of peak electricity demand. And tariffs would increase the cost of domestic manufacturing of electric and fuel-cell vehicles, specifically heavy-duty vehicles such as electric buses and forklifts, which are in great demand by state and local governments, airports, and universities.

Finally, tariffs applied broadly to clean and advanced energy and energy efficiency technologies would not achieve the goals of the proposed Section 301 action in response to Chinese violations that the administration is trying to remedy. IP protection is critical for fostering innovation, but this investigation has resulted in a threat to broadly apply tariffs that will hurt American interests. The research and software behind smart thermostats and energy-efficient products, for example, are largely developed outside of China, and often in the United States. Contract manufacturers in China that would be penalized by these tariffs are not necessarily headquartered in China and have minimal input into the design of the technology, so tariffs on their products can negatively impact U.S. IP development. The proposed tariffs would also lead to increased prices for American customers rather than eliminate Chinese violations.

² "Energy Efficiency in the United States: 35 Years and Counting," American Council for and Energy-Efficient Economy, June 30, 2015

³ See, Energy Trust of Oregon, "Smart Thermostat Pilot Evaluation" at 3-2 (March 1, 2016), https://www.energytrust.org/wp-content/uploads/2016/12/Smart_Thermostat_Pilot_Evaluation-Final_wSR.pdf. See also, Camdus Group, "Indiana: Smart thermostat pilot studies," <https://cadmusgroup.com/case-studies/indiana-smart-thermostat-pilot-studies/>.

We support the Administration's efforts to combat unfair trade practices by China, but oppose new tariffs that would cause harm to the domestic clean energy and energy efficiency industries. We appreciate the opportunity to comment in this process. Should you have any questions, please do not hesitate to contact Dylan Reed with Advanced Energy Economy (DReed@aee.net), Karen Hughes with the Alliance to Save Energy (KHughes@ase.org), Maggie Molina with the American Council for an Energy-Efficient Economy (MMolina@aceee.org), John Hensley with the American Wind Energy Association (JHensley@awea.org), and Laura Tierney with the Business Council for Sustainable Energy (LTierney@bcse.org).

Sincerely,

Advanced Energy Economy
Alliance to Save Energy
American Council for an Energy-Efficient Economy
American Wind Energy Association
Business Council for Sustainable Energy