



Comments of the Imaging Supplies Coalition (ISC) Concerning Proposed Modification of Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation: Docket Number USTR-2019-0004

The Honorable Robert Lighthizer
United States Trade Representative
600 17th Street NW
Washington, DC 20508

The Imaging Supplies Coalition ("ISC") is a non-profit trade association dedicated to educating, empowering and protecting consumers to combat counterfeiting and fraud in the imaging supplies industry. ISC members include Brother International Corporation, Canon U.S.A., Inc., Epson America Inc., HP, Inc., Lexmark International, Inc., and Xerox Corporation.

When tariffs were originally proposed in 2018, the ISC submitted comments supporting the exclusion of printer supplies including ink and toner cartridges covered by HTS 8443.99. We continue to be concerned that the implementation of broad-based tariffs aimed at this category of goods will be ineffective and counterproductive for the following reasons:

First, the imposition of such tariffs is unlikely to reduce imports from China in the near- or medium-term. Most printer parts and accessories are proprietary items, featuring patented technology, and designed to be used with only one, or a few, models of printers. Printer parts are items essential to operation of the printers they are designed to work with, and accessories are essential to optimizing these devices' operating capabilities. Because replacements or substitutes are not readily available, purchasers would have no choice but to continue sourcing Chinese-origin printer parts and accessories for the foreseeable future and paying the 25% proposed additional tariff. This means that in the near- to- medium term, the proposed additional tariff would have no negative impact on Chinese manufacturing or exporting, but would simply result in additional costs to be passed to United States businesses and consumers

Second, imposing additional tariffs on printer parts and accessories could reduce productivity in the United States, given the important role of the printing industry in supporting other U.S. industries. Printing systems are an essential component of the information technology infrastructure of virtually all United States businesses,

universities, schools, and government offices. Reducing users' access to essential parts, components and supplies, or increasing the cost of same, would simply place an unnecessary tax on these institutions, and those who depend upon them. It would also have an adverse impact on United States firms charged with maintaining, repairing and installing technology infrastructure in this country. If the operation of IT systems is disrupted by virtue of shortages of necessary printer components and supplies, this will contribute to reduced productivity across the economy. This is clearly an undesirable outcome and would be an unforeseen and unwelcome consequence of imposing an additional punitive tariff on Chinese printer parts.

Third, the proposed tariffs on printer parts would be counterproductive to economic growth generally, because it would adversely impact the operation of the international Information Technology Agreement (ITA). In 1996, the United States and its principal trading partners adopted the ITA, under which the signatory countries agreed to permanently eliminate their tariffs, on a Most Favored Nation (MFN) basis, on information technology goods and parts thereof. The agreement was expanded in 2015 to include new information technologies, and a greater range of materials used in producing ITA goods. The parties' intention was to allow the then-fledgling IT industry to grow without regard to tariff constraints.

The ITA has allowed companies to improve efficiency by lessening administrative burdens of customs clearance, reducing border costs, and helping to promote the diffusion of information technology products. The economic benefits of the ITA have been substantial and documented. Unburdened by tariff barriers, the information technology sector has grown at a rate substantially greater than the economy. Imposing tariffs on printer parts, and thereby curbing trade in information technology systems, would undoubtedly have a deleterious effect on this unprecedented economic growth driver. To do so would invite retaliation on IT goods in this and other trade disputes, thereby damaging a healthy, growing segment of the world's economy and otherwise empowering growing tendencies toward digital protectionism around the world.

Fourth, erecting such restrictions on trade would be at odds with, and could damage the potential success of, the United States Commerce Department's plan, announced in the April 12, 2018 Federal Register [83 Fed. Reg. 15786], to devise a comprehensive strategy to assist United States manufacturers of information and communication technology (ICT) hardware from being victimized by forced localization policies and other measures impacting the domestic industry. Commerce solicited input designed to help the government determine how best to confront protectionist policies in the ICT sector. Against this background, imposing tariffs on printer parts and accessories and other IT products would invite retaliatory measures from trading partners which could retard the development and implementation of this strategy.

Fifth, imposition of tariffs at the 25% level could lead to an increase in the importation of low price, inferior, counterfeit and patent infringing products, which would be counterproductive to administration and industry efforts to combat IPR infringement. We appreciate the Administration's commitment to strengthening intellectual property

protections for US business. These efforts are evidenced by the IPEC strategic plan, the USCBP released strategic plan and President Trump's Executive Orders, all of which the ISC supports.

We believe that other methods of preventing infringements from China are more effective than a tariff that will also injure legitimate and genuine products. For example, the U.S. printer supplies industry has already taken numerous steps to combat the intellectual property violations described in the Section 301 report. Leading companies in our sector have vigorously used Section 337 of the Tariff Act of 1930 to block the importation of infringing products from China and other markets. The ISC believes that continued use of Section 337 offers a more focused and effective response than broad-based Section 301 tariffs. Section 337 remedies can be focused specifically on known violators without unnecessarily penalizing U.S. companies and consumers. Administration efforts to enforce and enhance existing 337 remedies would be a more focused response to this IP infringement.

Sixth, Broad-based tariffs under Section 301 would harm U.S. printer supplies and consumers in several ways. Purchasers of printers often want the peace of mind of replacing cartridges of the same brand. Imposing tariffs on cartridges well after consumers have made their printer selections is unfair to existing printer owners. After-the-fact tariffs would also be unfair to printer makers whose replacement cartridges would now face an artificial comparative disadvantage with regard to non-branded cartridges imported from countries other than China that would not face these tariffs. Additionally, a recent study by Trade Partnership Worldwide, LLC prepared for the Consumer Technology Association and the National Retail Federation estimates that the tariffs would cause U.S. consumers to pay \$529 million more than they now pay for cartridges. The same study projects that the tariff will cause negative impact to the U.S. economy of \$180 million. Moreover, the study estimates that consumers will cut back on purchases of ink and cartridges by 7.8%, which will severely undermine companies based in the U.S.

While the administration has determined that imposing tariffs on Chinese goods will be an important method for curtailing unfair Chinese trade and industrial policy practices, targets for the imposition of such tariffs should be selected carefully. For the reasons set forth above, printer parts and accessories would not be a good choice. ISC therefore respectfully recommends that printer supplies including ink and toner cartridges covered by HTS 8443.99 and its subsections continue to be excluded from the scope of section 301 tariffs.

Thank you for your consideration.

Respectfully submitted,

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