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May 11, 2018

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

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 Petroleum Equipment & Services Association (PESA) is the national trade association for the oilfield service, supply and manufacturing sector. PESA represents approximately 200 companies that provide the services, technology, equipment and expertise necessary to safely and efficiently explore and produce oil and natural gas. Our members are committed to advancing safety, environmental stewardship and ensuring that society's continued economic progress is fueled through the sustainable development of our natural resources.

PESA's members manufacture products in the United States that are used to produce oil and gas here and across the globe. In 2017 the United States was the world's fourth largest exporter of upstream oil and gas equipment, with close to \$18 billion in annual exports worldwide.¹ These exports are weighted towards more specialized high-tech equipment, especially related to unconventional and ultra-deepwater exploration and production.² According to the U.S. Department of Commerce, "[h]aving been among the first in the world to develop unconventional and ultra-deepwater resources, U.S. equipment manufacturers and service suppliers have the opportunity to seize the first-mover advantage in overseas markets."³ These global markets, on top of the enormous and growing domestic market, underpin the prosperity of PESA member companies and thus of our hundreds of thousands of employees.

PESA thus has an interest in maintaining free and fair global markets and a competitive environment for U.S. manufacturing. Both of these interests are implicated in the serious issues identified in the Office of the United States Trade Representative's (USTR) 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, and in the tariff remedies proposed therein. While we continue to evaluate the impact of the proposed tariff list on the oil & gas industry, PESA has already identified on the proposed tariff list more than 100 products used by its members with U.S. manufacturing operations. We therefore appreciate the opportunity to submit comments in response to Section 301 report.

PESA is not in a position to dispute the serious findings related to forced technology and intellectual property transfer and unfair barriers to free market access. We deeply appreciate the Trump Administration's focus on ensuring a level playing field for U.S. businesses. As it relates to free and fair global trade, PESA believes the U.S. does best when it moves in concert with its allies and others similarly impacted by unfair trade practices. In this case, unilateral tariffs on certain products will drive up costs for U.S. manufacturers but not our international competitors, diminishing our competitiveness in domestic and international markets alike—rather than leveling the playing field for us it could tilt the playing field *against* us. This is surely not the intended result; PESA believes the best way of alleviating this risk while addressing the underlying issues identified in the Section 301 report is through multilateral measures that ensure our foreign competitors are subject to the same rules.

¹ Julius Svoboda & Victoria Yue, U.S. Department of Commerce, *2017 ITA Upstream Oil and Gas Equipment Top Markets Report* (2017).

² *Id.*

³ *Id.*

In the event that the U.S. government nonetheless concludes that unilateral tariffs on specific Harmonized Tariff System (HTS) codes is warranted, PESA respectfully urges the Administration to consider carefully the comments from the oil & gas industry and engage with all impacted U.S. businesses before proceeding. In addition, we submit the following specific recommendations:

- **Exclude or Delay the Effective Tariff Date for Products With Significant Lead Time to Develop Alternative Supply Chains.** The oil & gas industry abides by rigorous equipment standards and specifications, many of which are incorporated by reference into government regulation. The unconventional and ultra-deepwater applications in which the U.S. oil & gas industry particularly excels are demanding physical environments—reliability is key and supplier certification is a lengthy, expensive and critical process. Imposing tariffs while this process is ongoing unfairly punishes U.S. manufacturers.
- **Exclude Products with High U.S. Content.** Many of the PESA member products listed in the section 301 report contain high U.S. content, which means that imposition of the proposed tariff would serve at least in part as a self-imposed tariff on U.S.-manufactured goods. This again would disproportionately impact U.S. manufacturers to the benefit of our foreign competitors.
- **Exclude Intracompany Transactions.** The objectionable practices identified in the Section 301 report—compelled technology transfer, subsidized industrial capacity, etc.—do not apply to goods manufactured in China by U.S. companies and transferred to the same company in the U.S. Increasing the cost of these goods again imposes a cost on PESA members without any countervailing deterrent effect on the practices the U.S. government seeks to change.
- **Ensure Duty Drawback for Products Exported from the U.S.** Many of the goods manufactured here in the U.S. by PESA member companies are bound for foreign markets. To the extent that tariffs are imposed on inputs to these products, duty drawbacks should be available to avoid the effect of a self-imposed tariff on U.S.-manufactured goods.

PESA and its member companies are available to provide additional input on this matter. We greatly appreciate your continuing consideration of the views of the oilfield service, supply and manufacturing sector. Should you have any questions, please contact me at lbeyer@pesa.org or 713-932-0168.

Sincerely,



Leslie Beyer
President
Petroleum Equipment & Services Association

CC:

The Honorable Kevin Brady, Chairman, House Ways and Means Committee

The Honorable Orrin Hatch, Chairman, Senate Finance Committee

The Honorable Dave Reichert, Chairman, House Subcommittee on Trade

The Honorable John Cornyn, Chairman, Senate Subcommittee on International Trade, Customs and Global Competitiveness