Submission of the

Semiconductor Industry Association

Regarding

Proposed Determination of Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

Docket Number: USTR-2018-0005
May 11, 2018

1. Summary

The Semiconductor Industry Association (SIA) appreciates the opportunity to provide written comments on the actions proposed pursuant to the Section 301 investigation into unfair acts, policies and practices of China.

SIA shares the Administration's concerns regarding unfair and discriminatory trade practices that put American intellectual property in China at risk and seeks constructive, negotiated solutions to resolve these longstanding concerns in a manner that maintains SIA member companies' competitive edge in the semiconductor industry.

Our semiconductor industry is on the leading edge of advanced manufacturing, with nearly half of U.S. semiconductors firms' manufacturing base located in the U.S. across 21 states. With regard to the proposed list of tariffs on Chinese goods, we appreciate the Administration's effort to limit direct harm to competitive U.S. industries and their consumers, including the semiconductor and electronics industries. The vast majority of U.S. semiconductor imports from China are not made by Chinese semiconductor companies, and contain limited, low value-added Chinese content. As a result, tariffs applied on semiconductors and its supply chain would paradoxically harm competitive U.S. tech industries, including their workers and consumers, while failing to put real pressure on the Chinese government to modify its unfair trade practices. Moreover, the global semiconductor and technology industry thrives when governments allow for the free trade of goods across borders. This includes zero tariffs on semiconductors and semiconductor-enabled high-tech products.

We note and appreciate that most semiconductors, and major consumer electronics products in which they are embedded, are excluded from the list. However, the proposed list still contains a number of products of importance to the U.S. semiconductor industry supply chain and its customers that will cause disproportionate economic harm to U.S. interests. We request that the Administration remove these products from its proposed tariff list in order to maintain U.S. competitiveness and leadership in the global semiconductor marketplace.

2. Requested List of Products for Removal from Proposed Tariff Action

The semiconductor industry has one of the most complex and global supply chains of any industry, with several hundred processing steps involved in the manufacturing of individual components, and hundreds of unique components integrated in the final products sold to businesses and consumers. While we appreciate that integrated circuits were largely excluded from the proposed tariff list, we are concerned that the proposal still captures semiconductor devices, classified under HS 8541, and a wide range of inputs critical to the production and manufacture of semiconductors here in the United States, including specialized equipment, machine tools, instruments, and parts.

In the April 6, 2018 Federal Register notice, the USTR asked commenters to discuss "*whether imposing increased duties on a particular product would be practicable or effective to obtain the elimination of China's acts, policies, and practices, and whether maintaining or imposing additional duties on a particular product would cause disproportionate economic harm to U.S. interests…"* These questions are answered in turn as follows:

- Imposing duties on semiconductors and semiconductor manufacturing equipment in the current list will hinder SIA member companies' competitiveness and increase prices without creating any real pressure on China to change its trade practices. Forcing semiconductor firms to consider shifting supply chains because of tariffs on their imported goods from China would be very costly and put SIA member companies at a competitive disadvantage vis-a-vis their global competitors. Firms have chosen to produce lower margin components globally to reduce costs, serve local market needs more effectively, and maintain leadership. Forced disruptions in their global supply chains would add expenses through: 1) the cost of shifting the supply chain (e.g. higher product and shipping fees) to a geography other than China, and 2) the cost of producing in a more expensive business environment created by the tariffs. Even in categories (subheadings) where U.S. imports from China are not a large percentage of the total U.S. imports, shifting to sources outside of China can be difficult due to capacity constraints and the need for suppliers and customers to qualify the new locations to ensure that the products meet robust technical specifications.

- Imposing duties on the products for which we seek removal would not result in the elimination of the Chinese acts and policies that the Administration seeks. Many of the semiconductor and equipment products of concern, and particularly semiconductor devices under HS 8541, contain little to no Chinese domestic content. Rather, they are U.S. or other non-Chinese-origin products in which a portion of the production process, often times of very low-value, is done in China. While a crucial, cost-effective step in the semiconductor supply chain, this portion of production in China --typically assembly, testing, and packaging-- can represent a very small percentage of value-add. As a result, tariffs on products under HS 8541 will disproportionately harm SIA member companies to the benefit of any Chinese competitors.

- Finally, imposing duties on semiconductors and semiconductor equipment would cause disproportionate economic harm to U.S. interests. As noted above, the products for which we seek removal, particularly semiconductor devices under HS 8541, are not produced by indigenous Chinese companies. The products often contain U.S. or other non-Chinese value add, such as an import under HS 8541 in which a silicon chip made in the U.S. is inside of the plastic packaging performed in China. Thus, tariffs on these products would ultimately negatively impact SIA member companies and customers, as well as downstream manufacturing industries that incorporate these products.

Such outcomes resulting from U.S. government action pursuant to the Section 301 investigation would be paradoxical, given that the purpose of the investigation is to address Chinese practices that undermine the global competitiveness of U.S. firms. We therefore respectfully request that the attached list of products be removed from the proposed tariff list.

Attachment

HTS Subheading	Product Description	Importance to Semiconductor Industry	Total U.S. Imports ($), 2017	U.S. Imports from China ($), 2017
1. 84569031	Machine tools operated by electro-chemical or ionic-beam processes, for working metal	Essential high-end tool for semiconductor manufacturing	33,344,740	5,074,821
2. 84569071	Machine tools operated by electro-chemical or ionic-beam processes, other than for working metal	Essential high-end tool for semiconductor manufacturing	14,496,326	2,196,673
3. 84717060	ADP storage units other than magnetic disk, not in cabinets for placing on a table, etc., not entered with the rest of a system	Important electronic good that includes significant U.S. semiconductor content	1,398,051,353	412,603,195
4. 85044040	Electrical speed drive controllers for electric motors (static converters)	May in future include semiconductor modules now classified under 8541.29 if thermistor is present.	879,773,091	261,567,056
5. 85049075	Printed circuit assemblies of electrical transformers, static converters and inductors, nesoi	Significant amount of U.S. semiconductors is embedded on printed circuit boards	188,548,860	39,242,042
6. 85369040	Electrical terminals, electrical splicers and electrical couplings, wafer probers, for a voltage not exceeding 1,000 V	Essential high-end tool for semiconductor testing	928,251,152	146,200,351
7. 85369085	Other electrical apparatus nesi, for switching or making connections to or in electrical circuits, for a voltage not exceeding 1,000 V, nesoi	Semiconductor related product that is majority produced by non-Chinese companies	795,368,657	194,986,720
8. 85412100	Transistors, other than photosensitive transistors,	Semiconductor transistor that is	179,991,496	71,825,627

	with a dissipation ration of less than 1 W	majority produced by non-Chinese companies		
9. 85412900	Transistors, other than photosensitive transistors, with a dissipation rating of 1 W or more	Semiconductor transistor that is overwhelmingly produced by non-Chinese companies	1,067,265,456	206,784,700
10. 85413000	Thyristors, diacs and triacs, other than photosenstitive devices	Semiconductor transistor that is majority produced by non-Chinese companies	100,416,325	28,261,170
11. 85414070	Photosensitive transistors	Semiconductor transistor that is majority produced by non-Chinese companies	20,443,886	1,477,946
12. 85414080	Photosensitive semiconductor devices nesi, optical coupled isolators.	Semiconductor transistor that is majority produced by non-Chinese companies	299,517,675	52,770,732
13. 85414095	Photosensitive semiconductor devices nesi, other	Semiconductor transistor that is majority produced by non-Chinese companies	209,547,315	13,608,607
14. 85415000	Semiconductor devices other than photosensitive semiconductor devices, nesi	Semiconductor transistor that is majority produced by non-Chinese companies	315,643,895	34,773,678
15. 85416000	Mounted piezoelectric crystals	Semiconductor transistor that is majority produced by non-Chinese companies	411,936,401	167,863,911
16. 85419000	Parts of diodes, transistors, similar semiconductor devices, photosensitive semiconductor devices, LED's and mounted piezoelectric crystals	Semiconductor transistor that is majority produced by non-Chinese companies	191,570,090	36,095,350
17. 85447000	Optical fibre cables made up of individually sheathed	Critical component for advancing	1,173,139,254	283,379,997

	fibres, whether or not containing electric conductors or fitted with connectors	computing and communications platforms which integrate semiconductors		
18. 90248000	Machines and appliances for testing the mechanical properties of materials other than metals	Essential high-end tool for semiconductor manufacturing	81,736,724	6,084,485
19. 90303338	Other instruments and apparatus, nesi, for measuring or checking electrical voltage, current, resistance or power, without a recording device	Essential high-end tool for semiconductor manufacturing	270,824,456	64,667,296
20. 90308200	Instruments and apparatus for measuring or checking semiconductor wafers or devices	Essential high-end tool for semiconductor testing	353,818,599	32,240,256
21. 90309025	Printed circuit assemblies for instruments and apparatus for measuring or detecting ionizing radiation	Significant amount of U.S. semiconductors is embedded on printed circuit boards	16,650,579	3,966,747
22. 90309066	Printed circuit assemblies for subheadings and apparatus of 9030.40 & 9030.82	Significant amount of U.S. semiconductors is embedded on printed circuit boards	281,099,089	24,953,836
23. 90309068	Printed circuit assemblies, NESOI	Significant amount of U.S. semiconductors is embedded on printed circuit boards	73,780,101	12,447,119
24. 90309084	Parts and accessories for instruments and apparatus for measuring or checking semiconductor wafers or devices, nesoi	Essential high-end tool for semiconductor testing	159,603,770	35,547,026
25. 90309089	Parts and accessories for instruments and apparatus for measuring or checking	Essential high-end tool for semiconductor testing	360,228,610	27,419,382

	semiconductor wafers or devices			
26. 90314100	Optical measuring/checking instruments/appliances for inspecting semiconductor wafers/devices or photomasks/reticle used to mfg such devices	Essential high-end tool for semiconductor manufacturing, used for optical measuring and checking	334,816,951	1,745,459
27. 90318040	Electron beam microscopes fitted with equipment specifically designed for the handling and transport of semiconductor devices or reticles	Essential high-end tool for semiconductor manufacturing, used for optical measuring and checking	116,809,152	299,768
28. 90328960	Automatic regulating or controlling instruments and apparatus, nesi	Essential high-end tool for semiconductor manufacturing	3,133,201,601	335,738,422

Source: Official U.S. government trade data, U.S. Department of Commerce, obtained from the U.S. International Trade Commission, Dataweb: https://dataweb.usitc.gov/.