MEMORANDUM

October 29, 2018

To: Promotional Products Association International
From: Akin Gump Strauss Hauer & Feld, LLP
Re: Chinese Retaliatory Tariffs Analysis

On August 18, 2017, President Trump launched an investigation into unfair trading practices by China under Section 301 of the Trade Act of 1974. Seven months later on March 22, 2018, the United States Trade Representative, Ambassador Robert Lighthizer, completed the investigation and reported to President Trump that China regularly engages in a variety of unfair trading practices, including intellectual property theft, forcing technology transfers from U.S. companies to Chinese firms, and conditioning market access on joint ventures with Chinese firms. As compensation for these practices, the President levied duties on about half of all imports from China in several tranches.

- The first series of products to receive additional duties of 25% under Section 301 were valued at approximately $34 billion and took effect on July 6, 2018.
- The second list of products to receive additional duties of 25% were valued at nearly $16 billion and took effect on August 23, 2018.
- The third group of products to receive additional duties were valued at $200 billion and took effect on September 24, 2018. The duties on these products were set at 10% and will increase to 25% on January 1, 2019.

In response to each instance of American Section 301 duties, China responded with duties of its own on American exports. In its first two responses, China matched the United States’ tariffs by import value. However, the United States only exports approximately $154.8 billion of goods to China annually, and China did not match the latest round of tariffs, instituting tariffs on only $60 billion of U.S. goods. In total, China has levied retaliatory duties of 5%, 10%, 15%, 20%, and 25% on $105 billion of American exports, 67% of U.S. exports to China.

The products selected by both the U.S. and Chinese governments served strategic political ends. The Trump Administration sought to select products that would, according to Ambassador Lighthizer, impose maximum pain on China and minimum pain on American consumers. By contrast, the products selected by the Chinese sought to exact economic harm to U.S. regions and industries that could impose political pressure on the Trump administration and Congress to change course.
The first and second lists fulfilled the President’s initial threat to institute tariffs on about $50 billion of Chinese imports. China’s retaliatory tariffs covered the following products:

- **Agriculture** – Almost 38% of all the products on the list accounting for more than $17 billion in U.S. exports were from the agricultural sector. This was primarily the result of including soybeans on the list, which were the single greatest export on the list of any sector at more than $12.3 billion last year, accounting for more than a quarter of the value of the list alone. In fact, the only category of product that the U.S. sends more of by dollar value to China are airplanes, which were not included on the list. China targeted soybeans because they are grown widely across the rural Midwest, which voted heavily for President Trump and where soybean farmers are dependent on access to their number one export market. Other agricultural items of note on this list are: seafood ($1.2 billion in U.S. exports to China), cotton ($0.9 billion), beef, pork, and other meats ($0.5 billion), fruits and nuts ($0.5 billion), and dairy products ($0.4 billion).

- **Motor Vehicles** – Almost a quarter (24%) of all products on this list were motor vehicles, accounting for over $10 billion in exports from the United States to China. President Trump has a particular personal attachment to the manufacture of automobiles, publicly prioritizing increased U.S. auto manufacturing in the NAFTA renegotiation and threatening tariffs on imports of autos from all sources.

- **Coal, Oil & Gas** – Over $8.3 billion of products on this list belong to Chapter 27 of the Harmonized Tariff Schedule including various forms of coal, crude oil, gasoline, and liquefied propane. President Trump has also established a strong political identity in coal country, taking steps early in his Presidency to withdraw from the Paris Climate Accords and promise the return of coal producing jobs. Interestingly, many of these products were not included in the initial retaliation list that China first published on April 4, 2017, but were included on the revised list published on June 22, 2017. On June 1, 2017, President Trump withdrew from the Paris Climate Accords.

- **Other Items** – Assorted other items compose the remainder of the list in significant amounts. These include $3.4 billion in chemicals and plastics and $1.6 billion in medical devices and equipment.

The third list of products that the U.S. targeted for additional tariffs totaled nearly $200 billion in imports from China. In response, China retaliated against $60 billion in imports from the United States, covering the following products:
• **Machinery** – About $16 billion in U.S. machinery exports are on this list, such as mechanical appliances, electrical equipment, diesel engines, machine parts, liquid pumps, boards, and semi-conductor devices. These are the capital goods that Chinese factories use to power their manufacturing sector.

• **Chemicals** – Nearly $8 billion in U.S. chemicals exports are on this list beyond what was included on the previous list. Some of these chemicals include products like beauty makeup, sunscreen, skin care, and rubber products.

• **Wood** – Another $9.1 billion of U.S. exports are of wood (e.g., hardwood, cherry wood, oak, and fir, among others), processed wood, chemical wood pulp, newspaper, printed books, and paper.

• **Medical equipment** – Over $1.5 billion of American medical equipment exports are also on the list such as CT scans, needles, catheters, antibiotics, and syringes.

With about $105 billion out of $155 billion in U.S. products now facing additional duties, only about $50 billion in U.S. goods remain to be retaliated against. These include: aircraft and aircraft parts ($13.3 billion), semiconductors ($10.2 billion), and crude oil ($3.2 billion).

The initial list the Chinese developed was more targeted toward the products exported from America’s rural and industrial economic bases that also mapped onto the President’s and the Congressional Republican’s political bases. However, as a greater portion of Chinese imports were affected by the retaliatory tariffs, the Chinese had to also cover more intermediate goods and capital inputs, raising the costs of new investments in manufacturing.

While the $105 billion of retaliatory tariffs imposed by China on American exports in response to U.S. tariffs under Section 301 are significant, they still do not represent the full scope of retaliation against U.S. goods. In fact, they do not even represent the full scope of retaliation against U.S. goods by China, which has also instituted retaliatory tariffs for U.S. duties against steel and aluminum from China. The European Union, Canada, Mexico, and Japan also instituted tariffs against U.S. goods in retaliation for U.S. tariffs on their steel and aluminum. In total, these countries now have in place retaliatory tariffs against exports of U.S. goods valued at approximately $121 billion. With threats from the President still on the table for tariffs on the remaining U.S. imports from China under Section 301 and U.S. imports of autos from all sources under Section 232, retaliation against U.S. goods can be expected to continue in 2019.