

January 17, 2023

Submitted Electronically (<https://comments.ustr.gov/>)

The Honorable Katherine Tai
United States Trade Representative
600 17th Street N.W.
Washington, DC 20508

Re: Request for Comments in Four-Year Review of Actions Taken in the Section 301 Investigation: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation (Docket No. USTR-2022-0014); Supplementary Response to Section C

Dear Ambassador Tai,

On behalf of its member companies, the North American Association of Food Equipment Manufacturers (hereinafter "NAFEM") respectfully submits the following supplementary comments to the Office of the U.S. Trade Representative's ("USTR") *Request for Comments in Four-Year Review of Actions Taken in the Section 301 Investigation: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*.¹

The Section 301 tariffs have negatively affected U.S. foodservice equipment and supplies production, raised costs for producers and consumers, and lowered the availability of complete, U.S. manufactured products. Specifically, NAFEM members rely on certain Chinese-origin parts and components for manufacturing foodservice equipment and supplies in the United States impacted by the Section 301 tariffs. This supplementary response provides further details to Section C and NAFEM's request to remove certain tariff subheadings in **Annex A** from the actions.

Background on North American Association of Food Equipment Manufacturers (NAFEM)

NAFEM (<https://www.nafem.org/>) is a trade association comprised of more than 500 foodservice equipment and supplies manufacturers providing products for food preparation, cooking, storage, and table service for the food-away-from-home market. These businesses, their workers, and the products they manufacture support the foodservice industry, which includes school cafeterias, colleges and universities, correctional facilities, hospitals and eldercare facilities, lodging and casinos, corporate cafeterias, supermarkets, convenience stores, and restaurant locations across the United States.

Since 1948, NAFEM has represented hundreds of U.S. companies that manufacture an array of commercial foodservice equipment and supplies, ranging from primary cooking equipment such as stoves and ovens, to storage equipment such as refrigerators, freezers, and ice machines, along with preparation equipment like heated cabinets and racks, and serving equipment including tables, cookware, flatware, and beverage dispensers. In brief, NAFEM members provide everything to the commercial foodservice industry except the food.

¹ 87 Fed. Reg. 62,914 (Oct. 17, 2022).

NAFEM's members include a range of small, medium, and large U.S. businesses that provide indispensable U.S. manufacturing jobs throughout the United States. Many are family owned businesses that play an instrumental role in providing vital U.S. manufacturing and distribution jobs for thousands of American families, fueling the success of the U.S. economy. However, most of our members are small and medium-sized businesses. In fact, most members have annual sales of \$5 - \$10 million and qualify as small businesses, according to the Small Business Administration. Last year, according to the National Restaurant Association (NRA), the restaurant industry employed approximately 14.5 million workers and generated \$799 billion in sales. These businesses and their workers depend on NAFEM-member manufactured equipment and supplies to serve safe, flavorful food to consumers when and where they need it.

Section C Supplementary Comments to Remove Tariff Headings from Section 301 Actions

The Section 301 tariff actions have detrimentally impacted NAFEM members' complex manufacturing supply chains that require certain inputs for U.S. foodservice equipment and supplies manufacturers. The Section 301 tariffs have significantly increased costs for these necessary inputs. As USTR conducts its sunset review process, NAFEM respectfully requests that USTR *remove* the tariff subheadings provided in **Annex A** from the Section 301 tariff actions.

The Section 301 tariffs currently affect NAFEM member companies in three product categories across Tranches 1, 2, 3, and 4A:

- (1) Materials, parts, and components used to manufacture commercial foodservice equipment and supplies domestically;
- (2) Equipment and tools used in the manufacturing process; and
- (3) Finished commercial foodservice products.

See **Annex A** for the specific tariff subheadings.

Maintaining the tariffs on the subheadings would do nothing to eliminate or counteract China's acts, policies, and practices related to technology transfer, intellectual property ("IP"), or innovation. Rather, these particular tariff subheadings typically do not contain technology harming U.S. IP rights, innovation, or technology development. Maintaining the tariffs would continue to undermine the intent of the Section 301 actions and are contrary to the Administration's stated priority of increasing good-paying U.S. manufacturing jobs.

The Section 301 actions on the three product categories have had a negative impact on NAFEM members and the U.S. economy. Specifically, since 2018, NAFEM members have reported losing good-paying U.S. manufacturing jobs and a negative business impact on our customers, which include thousands of restaurants, convenience stores, and hotels around the world. Unfortunately, the adverse trade and economic effects of tariffs on these products have not been isolated to NAFEM members alone.

Many of NAFEM members are small- to medium-sized companies and these members have endured unprecedented series of challenges such as the Section 301 tariffs, supply chain disruptions, exploding shipping costs, and production constraints, and the COVID-19 pandemic.

These challenges have affected the ability of the small- to medium-sized companies' ability to succeed. The Section 301 duties on the tariff subheadings in Annex A continue to add unnecessary cost and uncertainty to a market already under immense strain. Ultimately, for all NAFEM members, the costs created by the Section 301 tariffs must be offset through increased prices to foodservice operators and ultimately, consumers. As such, the actions directly affect U.S. consumers.

In sum, NAFEM members respectfully request that USTR discontinue the Section 301 actions or in the alternative, remove the tariff subheadings identified in Annex A. NAFEM appreciates USTR's consideration of these comments. We invite the USTR to contact NAFEM should the USTR have additional questions about the negative economic impact of the Section 301 tariffs on the U.S. foodservice equipment and supplies industry. NAFEM members have a wealth of industry knowledge and data and welcome the opportunity to assist the USTR in its sunset review. Please do not hesitate to contact us, if you have any questions regarding the comments.

Respectfully submitted,



Charlie Souhrada, CFSP
Vice President, Regulatory & Technical Affairs
North American Association of Food Equipment Manufacturers (NAFEM)
161 N. Clark Street, Suite 2020
Chicago, IL 60601
Phone: (312) 821-0212
Email: csouhrada@NAFEM.org

Enclosure: Annex A – NAFEM's Request to Remove Certain Tariff Subheadings from the Section 301 Actions.