Office of the Vice President
Government and Regulatory Affairs

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Washington, D.C. 20005

BY ELECTRONIC FILING

September 6, 2018

The Honorable Robert E. Lighthizer
Ambassador
United States Trade Representative
600 17th Street, N.W.
Washington, D.C. 20006

Re: Comments 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-2018-0026

Dear Ambassador Lighthizer:

IBM Corporation (IBM) respectfully submits the following comments in response to the Office of the United States Trade Representative's (USTR's) request for public comments regarding potential retaliatory duties on certain imports from China in its investigation into ***China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation***, Docket Number USTR-2018-0026, pursuant to Section 301 of the Trade Act of 1974, as amended.

Economic Engagement with China Worked – But Updated Rules Are Needed

In 2000-2001, IBM was a strong supporter of China's accession to the World Trade Organization (WTO), and of the establishment of Permanent Normal Trade Relations with China. The terms of China's entry to the WTO required sweeping and substantial market-opening changes in China's economy. Tariffs were reduced or eliminated, quotas and import restrictions were removed, protection for intellectual property rights was improved, and trade-related investment measures were curtailed. Along with many other U.S. companies, IBM benefited greatly from the resulting expanded access to the Chinese market and has seen a significant increase in sales to Chinese customers since China's entry to the WTO.

But as China's leaders themselves now acknowledge, the Chinese economy has outgrown the clothes of the 2000 WTO accession package. After two decades of remarkable growth – an economic expansion in which many U.S. businesses and farmers have shared – it is clear that an updated set of rules are needed to ensure that China's economy remains open, and that terms of China's trade with the world are fair and equitable. This is only natural. Since 2000, Chinese incomes have grown dramatically, creating a new class of tech-savvy and early-adopting consumers. Chinese technology firms that were "infant industries" in 2000 are now global players. And as Chinese academic experts and the World Bank noted in a 2013 joint study, China needs to make deeper, market-oriented structural reforms in its economy to avoid the "middle income trap."[1]

International Cooperation Can Bring About Needed Change

The question for policymakers is how best to develop new rules of engagement for China's participation in the global economy. IBM believes that such changes can and should be accomplished internationally, with the cooperation of key U.S. allies and trading partners.

While the WTO itself offers one avenue for an updated Chinese offer of market access measures, it is not the only one. As a start, a plurilateral agreement among the world's largest economies – China's largest trade and investment partners – could establish broad new norms. The European Union and Japan would be logical, willing partners in working with the United States to bring about needed updates to China's terms of access to global markets. Indeed, these nations share many of the concerns about Chinese policies and practices that are described in USTR's Section 301 report. And those same concerns are echoed by many global business and agricultural associations.

China's leaders, too, acknowledge the need to expand market access, having made recent proposals to expand foreign participation in the financial services market. There are other areas of the Chinese economy that are strong candidates for further market liberalization, such as cloud computing services. IBM has discussed this topic frequently, and constructively, with Chinese officials at all levels of government. Other sectors such as express delivery services, entertainment services, and professional services have had similar dialogues, and offer similar opportunities for market reform. Clearly, there is both a need and an opportunity to work with allies to negotiate updated trade and investment rules that would further open China's market and deepen reforms.

Tariffs are Counterproductive

Instead, however, the United States has chosen to impose unilateral tariffs on China, and *also* on the very allies that are most critical to an international effort to further open the Chinese economy[2]. Such tariffs are counterproductive, and IBM urges the Administration not to proceed with proposed measures affecting approximately $200 billion of imports from China.

Tariffs are taxes, first and foremost on American consumers. Tariffs also increase costs for businesses that import parts and components for manufacturing in the United States. Tariffs applied unilaterally will mainly benefit the global competitors of U.S. companies, who will enjoy

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[1] The World Bank and the Development Research Center of the State Council, P.R. China, *China 2030: Building a Modern, Harmonious, and Creative Society.*
[2] Via other tariffs imposed under Section 232 of the Trade Expansion Act of 1962, as amended.

a preferred position in the Chinese market and will not be subject to increased costs of production. Tariffs risk ever-increasing retaliatory measures, potentially hurting the global economy.[3] And perhaps most importantly, unilateral tariffs put at risk the opportunity for the United States to work cooperatively with allies to further open the Chinese economy which is, after all, the principal goal of this exercise.

Summary

In summary, IBM believes that China's entry to the WTO nearly twenty years ago was good for the United States, good for China, good for IBM, and good for the world. But the terms of trade that made sense for the Chinese economy in 2000 need to be updated to reflect new realities, both in China and in the world. Europe, Japan, and other countries share America's interests in upgrading the rules that govern China's access to global markets, and could be willing partners in an international effort toward that objective. But unilateral tariffs as proposed by the United States are counterproductive. They impose new and unnecessary costs on American consumers and businesses, benefit America's foreign competitors, pose risks for the global economy, and decrease chances for international cooperation to further open China's market.

IBM urges the United States to refrain from imposing the proposed tariffs, and instead to deploy a new strategy of working with allies to achieve the shared objective of deepening economic reforms and improving market access in China.

Respectfully,

Christopher A. Padilla
Vice President
Government and Regulatory Affairs

[3] In mid-July 2018, the International Monetary Fund quantified the potential cost to the global economy at more than $430 billion in lost productivity, with America "especially vulnerable" to an escalating tariff war.