

June 17, 2019

BY ELECTRONIC SUBMISSION

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

Re: Request for Public Comment Concerning Proposed Modification of Action
Pursuant to Section 301, Docket No. USTR-2019-0004

Dear Ambassador Lighthizer:

The Association of American Publishers (AAP) appreciates the opportunity to provide its views in response to the request for public comments in these proceedings. For the reasons we outline below, we request that all printed books under Chapter 49 of the Harmonized Tariff Schedule be removed from the list of products to be subject to the proposed additional tariff as announced by your office on May 17, 2019.¹

AAP represents both large and small publishers in the United States on matters of law and policy.² We share the Administration's serious concerns with China's failure to protect intellectual property and the related issues of forced technology transfer that USTR has investigated in this Section 301 proceeding. However, our industry believes that imposing tariffs on books would be bad policy because tariffs would seriously and disproportionately harm U.S. companies and limit American voices, while having no discernible impact on the Chinese government, which neither prioritizes printing for development nor includes it in its Made in China 2025 innovation agenda.

The U.S. government has long recognized that protecting American voices and the publication of American works is critical, even in the context of imposing significant

¹ *Request for Comments Concerning Proposed Modification of Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 84 Fed. Reg. 22,546 (USTR May 17, 2019).

² AAP's membership includes the major publishing companies in the United States, as well some 150 small- and medium-sized publishing houses, many of which are leaders in sectors of a book publishing industry that collectively generates over \$26 billion in annual revenue and employs hundreds of thousands of Americans.

international trade restrictions. For this reason, the U.S. government has for decades exempted books and other written material from tariffs and other trade restrictions.

Specifically, we ask that the following tariff codes not be subject to tariffs:

- 4901.10.00 Printed books, brochures, leaflets and similar printed matter, in single sheets, whether or not folded
- 4901.91.00 Printed dictionaries and encyclopedias and serial installments thereof
- 4901.99.00 Printed books, brochures, leaflets and similar printed matter, other than in single sheets, which includes but is not limited to textbooks, art books, Bibles, testaments, prayer books, and other religious works, technical, scientific and professional books, works of fiction and non-fiction.³
- 4903.00.00 Children’s picture, drawing or coloring books
- 4910.00.20 Calendars printed on paper or paperboard in whole or in part by a lithographic process, not over 0.51 mm in thickness.
- 4910.00.40 Calendars printed on paper or paperboard in whole or in part by a lithographic process, over 0.51 mm in thickness.
- 4910.00.60 Printed calendars, including calendar blocks, printed on paper or paperboard by other than a lithographic process

I. The Imposition of Additional Duties on Books Pursuant to Section 301 Would Undermine Fundamental American Principles and Goals and Disproportionately Harm Americans Economically

Plainly stated, imposing tariffs on books would be bad policy.⁴ Imposing tariffs on printed books — including textbooks, children’s books, Bibles and other religious works, popular works of fiction and non-fiction, technical, scientific, and professional books — is contrary to longstanding U.S. policy of exempting from tariffs the importation of educational, scientific, and cultural materials. Books foster the free exchange of knowledge and information, reflecting a core American value enshrined in our constitution and key to the enjoyment of many of our basic rights. The free movement of books is necessary to upholding these American values.

The importance of this fundamental principle is reflected in U.S. law, including the explicit provisions of the International Emergency Economic Powers Act (IEEPA). This statute gives the president broad powers to declare a national emergency and regulate or prohibit commerce with hostile countries in response to any unusual or extraordinary threat they may pose to the United States. However, even in this extreme circumstance, Congress explicitly exempted information and informational materials from all import restrictions.⁵ Similarly, over many

³ Specifically: 4901.99.00.10 (Textbooks); 4901.99.00.20 (Bound newspapers, journals, and periodicals provided for in Legal Note 3 to this chapter); 4901.99.00.30 (Directories); 4901.99.00.40 (Bibles, testaments, prayer books and other religious books); 4901.99.00.50 (Technical, scientific, and professional books); 4901.99.00.60 (Art and pictorial books - valued under \$5 each); 4901.99.00.65 (Art and pictorial books valued \$5 or more each); 4901.99.00.70 (Hardbound books); 4901.99.00.75 (Rack size paperbound books); 4901.99.00.91 (Containing not more than 4 pages each excluding covers); 4901.99.00.92 (Containing 5 or more pages each, but not more than 48 pages each excluding covers); 4901.99.00.93 (Containing 49 or more pages each excluding covers).

⁴ Throughout this submission, references to “books” refer to the full list of tariff numbers listed above collectively, including those covering calendars.

⁵ 50 U.S.C. § 1702(b)(3).

decades, tariff bills have ensured that the U.S. tariff schedule allows books to be imported into the U.S. duty free, even from pariah countries with which we have cut diplomatic relations. While China's acts, practices, and policies with respect to technology transfers and intellectual property may burden U.S. commerce, the current trade dispute with China is not a scenario that justifies upending the long-held policy of allowing books to enter the U.S. duty free to promote the free exchange of knowledge and information. The U.S. edge in creativity and innovation is anchored in our resolute protections of freedom of expression.

Imposing tariffs would not only undercut these fundamental American values, but also would inflict serious harm on publishers and their downstream partners, both for-profit and non-profit, as well as on the diverse communities of readers they serve.

In addition to their economic damage, tariffs would jeopardize American education and literacy efforts and hamper worker training, all critical needs to keep America at the top of global competition. Likewise, tariffs would stifle innovation in the U.S. publishing industry, a premier creative player in a tough global market. With the proliferation of social media sites, video games, and growing screen time overload, America's interest in reading is already under threat. The increase in the cost of books that would be brought on by the tariffs would only exacerbate the decline in our society's readership levels, and rates of literacy. Tariffs would jeopardize all of these important American advantages and core values.

A. The Economic Harm from Tariffs

Imposing tariffs on books would have a serious adverse economic impact on the publishing industry and their partners in the supply chain. Publishing is an industry (as is the printing industry) with very thin margins. This means that a major tariff would impose damaging and unanticipated costs, particularly for a range of small- and medium-sized U.S. publishers, severely curtailing their continued ability to operate profitably, sustain good U.S. jobs, adequately fund employee health and retirement accounts, and make capital investments to grow their business and invest in new authors and innovative products. They simply will not be able to absorb any of the additional costs tariffs would bring, and the resulting reduction in investment will mean a loss to American readers for whom choice will unfortunately become limited. Further, if these smaller publishers try to pass this huge cost on to consumers, they may well price their products out of the market, and given their lack of any financial cushion, could see their business sharply limited, or even closed.

Larger publishers would also be adversely impacted — potentially shutting down certain book-product lines and reducing their workforce, as well as suffering from cost increases that reduce their output. These threats could elicit risk-averse behavior such that potential new authors may be overlooked in favor of existing authors to minimize potentially risky spending on unknown prospects. With the market uncertainty that will be generated by the imposition of the tariffs, there will be fewer risks taken and therefore less innovation. As a result, fewer new American voices will find their way into the global marketplace of ideas — an unintended stifling of the myriad and diverse voices that make American cultural and literary life the envy of other countries, even China.

Further, the U.S. publishing industry is well known as the global leader in other kinds of innovation, and the tariffs would diminish these cutting-edge efforts. Right now, U.S. publishers are exploring and experimenting with new, compelling book formats and innovative delivery mechanisms that can compete with and mitigate the ill effects of passive “screen time,” particularly on children. Many of these efforts rely on the longstanding specialized high-end printing and handwork expertise developed in China since the 1980s and could not possibly continue if the tariffs were imposed.

Given the economic realities, publishers would inevitably have to pass on a significant portion of any tariff to customers, non-profits, and the broader American community. For booksellers, already terribly pinched financially and facing steep competition from online e-commerce giants, imposing tariffs would create a major risk that many small- and medium-sized bookstores in the United States would be unable to remain viable.⁶ These bookstores not only create good jobs; they also serve as important community resources and centers, amplifying the critical message that literacy is a core goal for all Americans. Their loss would be deeply felt by communities across the country.

Furthermore, tariffs on books would significantly impair the ability of libraries, schools and non-profit literacy advocates to successfully accomplish their social missions — to make books accessible to greater swaths of the American public, particularly under-served communities, to promote literacy and early childhood success. None of these organizations has the leeway to take on more costs. The damage would ripple through the American education system — from the youngest children whose access to their first book may prove more difficult to adults seeking new training as they attempt to adjust to economic change. Lower-income Americans would of course be the most disadvantaged. The adverse implications for American literacy, education and future productivity could be severe⁷ and linger long beyond the removal of tariffs.

B. Alternative Sources of Printing Are Not Readily Available in the United States or Elsewhere.

U.S. publishers print a great quantity of their books in the United States. Indeed, where the U.S. printing industry can satisfy demand, publishers choose to print in the United States, where the quality is high and turn-around time short. However, not all printing needs can be met domestically. U.S. printers lack the capacity to meet existing demand for the kinds of books they can print, much less take on the volume of books being printed in China. U.S. printers long ago shifted their investment focus away from the infrastructure necessary to print and produce the kinds of books currently being printed in China. In doing so, the U.S. printers also stopped investing in training workers to develop the technical skills required to produce such books.

The particular book printing and binding that is expertly and economically done in China for the U.S. market involves longstanding specialized technical manufacturing processes, resulting from global specialization that occurred decades ago, in the 1980s. Printing is not a new, high tech industry and is not in any way a priority industrial-policy focus for China, or part of China’s

⁶ See, for example, data cited in comments submitted June 4, 2019 on this docket by Professor Greco and Mr. Milliot (“Greco-Milliot comments”). See also submissions by Jamie Fiocco of the American Booksellers Association.

⁷ See, for example, Greco-Milliot comments.

Made in China 2025 plan. The books being printed in China include four-color books of all types, bibles and other specialized bound books, board books and other children's books, including so-called novelty books that have added features. The types of printing and production needed to bring such books to market require not just specialized technology (and printing machines), but also hand work (or manual labor) to finish the products. For instance, a pop-up book (for children or otherwise) requires a special machine to cut the parts; plus, the assembly of the books must be done by hand by skilled workers. In addition, certain book-binding methods rely on hand-stitched spines which again require that the workforce be specially trained for these activities. Alternative sources for printing and producing these books in commercial quantities are simply not available elsewhere, as no other country has the capacity or the labor force with the necessary skills to print and manufacture certain specialized books with the same standard of quality and efficiency, at highly competitive, economical pricing, as China. China has been the go-to source for these printing services for more than 25 years, and it will be difficult to match China on capacity and on quality at the price point they can offer for these types of books.

To attempt to match China's capabilities, printers in the United States and in other countries would need to make very substantial investments in new presses and employee training. Developing that capacity would take years, to the extent it is actually feasible and cost-effective. (As noted above, some books printed in China require a great deal of skilled hand work.) Realistically, the prospects for new capacity seem highly unlikely. Given the extremely long time-horizon for any return on investment in light of the tight margins in the industry, the odds of any U.S. business willingly assuming the risk of investing in a printing business are close to nil. The investment hurdles are too high, and the promise of any return on investment too flimsy. Indeed, the printing industry in the United States is shrinking, not expanding.

Even if alternative sources for printing could be built, the lead time required to switch suppliers would add further significant delays. Most publishers, especially for children's books, need to certify suppliers, ensure quality control, and undertake special training for employees. Printers, like other vendors of such services, are held to stringent compliance requirements, code of conduct standards, and paper sourcing requirements. For instance, U.S. publishers must ensure that certain types of specialty books they publish for young children comply with the Consumer Product Safety Improvement Act (CPSIA). The Chinese vendors that publishers work with have made the requisite investment to ensure that they can meet these compliance obligations. Thus, even if alternative capacity was in place, publishers would still face significant lost time in bringing books to market. Before printing could begin, the publisher would have to audit the new entity, determine if it is capable of handling the publisher's printing needs, and, if its printing operation is not yet compliant, the printer must be ready and willing to make the necessary investments to meet compliance obligations. Ensuring these conditions are met would cause substantial further disruption in the supply chain.

Finally, a great many publishers will have worked with their printer of choice over a span of years or even decades. In that time, the printer will have become a partner in the art of producing or manufacturing a book — in some instances, advising on the book manufacturing process, suggesting improvements, and catching errors. Establishing that level of trust and engagement takes time, which, again, is in short supply when publishers must race to meet the demands of the market and bring known and new author voices to the diverse community of readers in America.

II. Book Printing Is Not a High-Technology Industry and Book Tariffs Won't Affect China's Technology Policies

A 25 percent tariff on U.S. authored and designed books that are printed in China is not a practical or effective means of eliminating or alleviating the unfair discriminatory acts, policies, or practices that are targeted by the Section 301 investigation. The investigation was launched in 2017 to address China's practices related to the forced transfer of American technology and the theft of intellectual property. Those practices are not relevant to the printing of books.

The printing of books does not require significant technology or know-how that is at risk of theft or appropriation by China. Printing books in China does not place U.S. intellectual property, innovation or technology at risk. The intellectual property and value added in a book are all American. The U.S. publishing industry owns the IP and innovation found in books. Books are created in America, by American authors, illustrators and editors. The way printing is done and the short timeframe from printing to publication, as well as the longstanding relationships U.S. publishers have established with reliable suppliers in China, have meant that U.S. publishers have experienced no significant problems with pre-publication IP theft when printing in China.

As noted above, book production is not a new or cutting-edge technology and is not part of China's Made in China 2025 plan. Rather, China has been an important and reliable source of printing services since the 1980s. Because printing is not a priority for the Chinese government, tariffs on books are not likely to affect in any way the Chinese government policies related to technology transfer, IP protection, or innovation that are the targets of the Section 301 action. Furthermore, because the trade in books is a very small element of China-U.S. trade, they will have no macroeconomic effect in China. On the U.S. side of the equation, for the same reason, leaving books out of any tariffs would not diminish the impact of trade sanctions overall.

III. Conclusion

The Administration's goal of moving China to reform its acts, policies, and practices is a compelling one, given China's long history of inadequate protection and enforcement of intellectual property. Unfortunately, the imposition of tariffs on printed books under Chapter 49 of the HTS would not contribute to prompting such reform. Imposing a 25 percent tariff on books printed in China would instead be shooting America in the foot. It would impose significant costs on American publishers, booksellers, libraries, schools, religious organizations, non-profits and American families, resulting in lost jobs, potentially shuttered businesses, loss of progress in promoting early literacy among American children, and a diminishment in the quality of American education, training, and innovation. Tariffs on printed books would also conflict with longstanding American principles rooted in the First Amendment protections of the free flow of information and the practice of religion. The disproportionate harm that would be inflicted upon U.S. businesses and consumers, as well as to critical priorities and values of our country, makes it critical to stay true to the long-established policy of not imposing tariffs on books.

Thus, we ask the Administration to continue to maintain the long-held U.S. policy of ensuring that printed books — textbooks, children's books, Bibles and other religious works,

works of fiction and non-fiction, technical, scientific, and professional books — remain free of tariffs. Books have societal value — they educate, they entertain, they inspire. They remain the most dependable form of media through which facts, ideas, and stories are conveyed to American citizens, and American voices to the world. It is therefore vital that the American public continue to have access to the myriad voices and views that the U.S. publishing industry brings to them through books and other printed material — no matter where the books may be printed.

Respectfully submitted,



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