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May 24th 2019

SPECTARIS-Position

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„Initiation of Investigation; Notice of Hearing and Request for Public Comments: Enforcement of U.S. WTO Rights in Large Civil Aircraft Dispute”

SPECTARIS is the German Industry Association for optical, medical and mechatronic technologies and unifies around 400 mainly small and medium sized German high-tech enterprises in its four professional associations “Consumer Optics”, “Photonics”, “Analytical, Bio and Laboratory Technology” as well as “Medical Technology”. Among the SPECTARIS members are also U.S. companies from the above mentioned industries which have subsidiaries in Germany. The SPECTARIS members are not only characterized by their strength in exports, with the United States of America being the most significant export market, they also create added value in the US through their local subsidiaries and employ hundreds of Americans.

On April 12th 2019, the US Trade Representative (USTR) published a preliminary list in the Federal Register (Docket No. USTR – 2019 – 0003). The list includes 317 tariff lines of imports from the European Union worth EU \$ 21 billion that are potentially eligible for additional duties.

The list is divided into two sections with section 1 containing products that are subject to additional duties in the future if they are a product of one of the four EU Member States, France, Germany, Spain or the United Kingdom.

Section 2 contains products that could be subject to additional duties if they are product of one of the 28 member states of the European Union. Among these are products that would not only heavily affect the business of SPECTARIS industries in Germany but predominantly have an impact on their business operations in the United States, if the US-administration went ahead and imposed additional customs duties for these products.

These are the following HTS-subheadings:

- 7017.10.60 Laboratory, hygienic or pharmaceutical glassware, whether or not calibrated or graduated of fused quartz or other fused silica, nesoi
- 8505.11.00 Permanent magnets and articles intended to become permanent magnets after magnetization of metal
- 9001.90.50 Prisms, unmounted
- 9001.90.80 Half-tone screens designed for use in engraving or photographic processes, unmounted.
- 9002.11.40 Projection lenses, mounted, and parts and accessories therefor, for cameras, projectors or photographic enlargers or reducers.
- 9002.11.60 Mounted objective lenses for use in closed circuit television cameras, separately imported, w/or w/o attached elec. connectors or motors.



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- 9002.11.90 Objective lenses and parts & access thereof, for cameras, projectors, or photographic enlargers or reducers, except projection, nesoi.
- 9002.90.85 Mounted lenses, n/obj., for use in closed circuit television cameras, separately imported, w/o attached elec. connectors or motors.
- 9005.10.00 Binoculars.
- 9006.61.00 Photographic discharge lamp ("electronic") flashlight apparatus.
- 9013.10.10 Telescopic sights for rifles not designed for use with infrared light.
- 9013.10.50 other telescopic sights for arms other than rifles; periscopes.
- 9015.30.80 Levels, other than electrical.
- 9016.00.20 Electrical balances of a sensitivity of 5 cg or better, with or without weights, and parts and accessories thereof.

The USTR justifies its action by stating that the WTO has repeatedly criticized that EU's subsidies to aircraft manufacturer Airbus would have adverse effects on the US. Due to these circumstances, the US has therefore opened a procedure under Section 301 of the Trade Act of 1974 to introduce possible countervailing duties on EU products.

Impact of the additional tariffs for the business operations of the SPECTARIS members in the United States of America

We oppose the imposition of additional import duties for the above mentioned HTS subheadings as it would neither provide a solution for the large civil aircraft dispute nor would it help to enforce the U.S. WTO rights in this matter. Contrary, imposing additional import duties would significantly harm other industries in which our member companies on both sides of the Atlantic participate. Especially our companies from the field of analytical, biotechnology and laboratory technology, photonics as well as imaging and photo technology would be impacted in their business operations in the US. This includes the business operations of our members with subsidiaries in the US, the supply chains of the US parent companies of our members and major parts of the US high-tech industries to which our members cater as suppliers.

■ Impact of additional import duties on the US-parent companies of our members with added value within the European Union

Apart from German companies SPECTARIS also represents a large number of US parent companies from the field of analytical, biotechnology and laboratory technology, optical technologies and components as well as imaging and photo technology through their German subsidiaries.

A majority of these US parent companies create added value through their German or European Union based subsidiaries. Especially in the high-tech industries SPECTARIS represents some German based



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subsidiaries which exclusively manufacture primary materials, replacement parts or consumables not only for the European market but also for the US-market. The global shipping of these materials either for their US parent company or for their worldwide customers is organized exclusively from their subsidiaries within the European Union. Additionally, all of these products would be a product of Germany or another state of the European Union and would therefore be subjected to additional import tariffs.

An increase of the import duties especially for primary materials and consumables such as laboratory glassware, permanent magnets, unmounted prisms and lenses would lead to higher transaction costs, higher product prices and also make US-companies less competitive not only on their domestic market but also on the world market compared to their competitors from Asia which would be exempted from paying additional import duties. This would result in a negative impact on the US economy and on jobs in the US.

■ Restructuring operations and relocation plans by German companies for their US subsidiaries

The United States of America are the most important export market for the German analytical, bio and laboratory technology, optical technologies and components, photonics as well as imaging and photo technology industries. For some of our member companies from the above mentioned industries, the export quota to the USA amounts to more than 15 percent of the total turnover.

Most of the SPECTARIS member companies have subsidiaries in the United States and employ several hundred people within the US. Not only do our member companies create highly skilled jobs in the United States with their business activities are not being limited to the coastal metropole regions in New York or California but also include business investments in Michigan, Illinois, Indiana, Florida and other states to often maintain several customer-oriented local subsidiaries.

All of these US subsidiaries have in common that they mainly receive their primary materials such as lenses, prisms, objectives etc. from their parent companies headquartered in Germany or in another member state of the European Union. The final assembly and the service activities are carried out within the United States. As primary materials for our industries would also be affected if additional import duties would be imposed, the US subsidiaries of our member companies would be severely affected.

German parent companies with US subsidiaries already face uncertainties due to the trade dispute between the United States and the People's Republic of China. As a last resort, imposing additional import duties for the above mentioned HTC-subheadings for products from the European Union could lead to that German companies from our industries and their US subsidiaries would not be able to compete in the US-market with this set up.



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Eventually, this would lead to the cancellation of jobs in the US and to relocations of the business activities for example to Canada or Mexico as the final assembly and the service activities for the US market could easily be carried out from these countries now that the United States – Mexico – Canada-Agreement (USMCA) is in place and ensures access to the US-market.

■ SPECTARIS members are single source suppliers and OEM providers in major US-industries

SPECTARIS members are leading experts in the field of cinematography, imaging and photo technology, precision engineering, machine vision, industry optics and for electrical balances. Most of our members are Original Equipment Manufacturer (OEM) providers, which means, that our members combine a broad performance spectrum with comprehensive expertise in the fields of optics, (digital) imaging, photo technology, laser engineering, sensor technology, optical coating and optoelectronics.

A large number of our members are also characterized by their flexibility – as their production provides tailor made solutions for their specific customers in the US so that they can cater to the specific needs for their customers. These include large film studios and major movie production companies in Hollywood and American high-tech companies which use optics made in Germany for their waver inspection machines.

This expertise paired with the ability to provide tailor made solutions makes some SPECTARIS members single source suppliers for many US high-tech companies and the first choice for Hollywood's movie and entertainment industry. Imposing additional import duties on our above mentioned products would first of all lead to an increase in the product price for the tailor-made products of the SPECTARIS industries. As our members are often single source suppliers or the only OEM provider the increase in the product pricing will also affect their US-customers and US-distributors which order the tailor made products.

This would heavily impact the American movie and entertainment industry and the American high-tech industry.

■ Strengthening of competitors from Asia

Especially in the photo and imaging technology industry, both in the US as well as in Europe, the industry is already facing extremely low prices by their competitors from East Asia. The low product prices they bring to the market are caused by both the lower wages in Asia but also by the intensive state subsidies e.g. China provides its companies with. These actions make it difficult for European companies but also for US-companies to stay competitive in their domestic market. Additional import duties to the US would intensify this problem as also US-companies often source their primary parts from the European Union.



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Position of SPECTARIS

As an industry association, SPECTARIS is committed to ensure that its members can build their economic relationships and carry out their business operations based on openness, non-discrimination and fair competition so that a level playing field is created for all business operators.

Plans to impose additional import duties on the products of our industries which do not have any connections to the dispute in about large civil air crafts between Boeing and Airbus is jeopardizing the long and well-functioning fair and mutual trade relationships our members have established in the United States based on mutual trust. Our members are important suppliers to Hollywood's film industry and to the American high-tech industries, many of them being single source suppliers in their specific industry. In total, the entire US economy would also suffer if the additional duties are imposed as product prices would increase for the US customers of our members.

Our companies employ several hundred people in the United States, generate added value in the United States through their US-subsiaries, contribute to the local communities in the United States where their subsidiaries are based and contribute several million US-dollars in tax revenue for the United States. Imposing additional import duties would very certainly lead to future relocation decisions by our members if additional import duties would be introduced and putting jobs on the line in the United States.

Based on the reasons mentioned above SPECTARIS asks the US-administration to refrain from imposing additional import duties on the products of our industries we mentioned above. Imposing additional duties on the products of our industries is neither beneficial to solve the dispute in large civil air craft nor does it contribute to the upcoming talks between the European Union and the United States in order to negotiate a trade and custom agreement, where we as SPECTARIS would see great potential for businesses on both sides of the Atlantic Ocean.