



Global Trade Advisory Alert

US Increases Section 301 Tariffs on List 3 China Origin Goods from 10% to 25% and Proposes a Fourth List of Additional Tariffs, while China Responds with Additional Tariffs on US Origin Goods

US Actions

On 10 May 2019, at 12:01 a.m. EDT, the United States increased the additional duty rate applicable to "List 3" products of Chinese origin from 10 to 25 percent. The List 3, Section 301, duties were previously addressed in Federal Register notices dated 21 September 2018 (83 FR 47974), 28 September 2018 (83 FR 49153), 19 December 2018 (83 FR 65198), and 5 March 2019 (84 FR 7699).

Subsequently, on 10 May 2019, the United States Trade Representative (USTR) published an Action Notice clarifying that importers with goods exported from China to the US prior to 10 May 2019 will be able to avoid the increased Section 301 duties on those goods if they are entered into the US before 1 June 2019. Such goods will remain subject to the previously established additional

duty of only 10 percent and may be entered under a new subheading in Chapter 99 of the HTSUS (9903.88.09).

Additionally, on 10 May 2019, the USTR stated via a press release that the President ordered the USTR to begin the process of raising tariffs on approximately \$300 billion additional imports from China. To this end, in another Action Notice issued on 13 May 2019, the USTR proposed an additional duty of up to 25 percent on a proposed fourth list of China-origin imports. The proposed List 4 covers most products not currently covered by Lists 1 through 3, but excludes pharmaceuticals, certain pharmaceutical inputs, select medical goods, rare earth materials, and critical minerals. The USTR also announced the schedule for the public comment and hearing process for the proposed List 4, as follows:

- 10 June 2019: Due date for filing requests to appear and a summary of expected testimony at the public hearing.
- 17 June 2019: Due date for submission of written comments.
- 17 June 2019: The Section 301 Committee will convene a public hearing in the main hearing room of the U.S. International Trade Commission, 500 E Street SW Washington DC 20436, at 9:30 a.m.
- Seven days after the last day of the public hearing: Due date for submission of post-hearing rebuttal comments.

The US has attributed the above actions to China's recent retreat from specific commitments agreed in early rounds of trade negotiations between the US and China that have been on-going since December 2018.

China's Response

On 8 May 2019, the Chinese Ministry of Commerce responded to the US actions by signaling its intention to take "necessary countermeasures." Subsequently, on 13 May 2019, the Chinese Foreign Ministry indicated that, effective 1 June 2019, China will increase tariff rates from 10 percent to 20 or 25 percent and from 5 percent to 10 percent on 5,140 US-origin goods already subject to previously imposed additional tariffs.

Update on US Exclusions from Section 301 Tariffs

Following its prior indefinite postponement of an exclusion process for List 3 tariffs, the USTR contemporaneously announced that it will publish a separate notice describing the product exclusion process for List 3. Further, the USTR announced that it will also be publishing its latest list of product exclusions from List 1, which will take effect retroactively from 6 July 2018, when the List 1 tariffs originally entered into force, and will remain in effect for one year following the publication of USTR's notice.

As of 13 May 2019, the results of the List 1 and List 2 exclusion processes, both of which were closed to new requests in 2018, stand as follows:

- List 1: Of 10,837 exclusion requests submitted, 1,957 (18%) have been granted, 6,005 (55%) have been denied, and 2,875 (27%) remain pending.
- List 2: Of 2,920 exclusion requests submitted, none have yet been granted, 956 (33%) have been denied, and 1,964 (67%) remain pending.

If the exclusion requirements for List 3 mirror those that were established for List 2, they would require:

- A detailed description of the physical characteristics of the product in consideration;
- The 10-digit subheading;
- The average annual quantity purchased for the last three years;
- The percentage of the importer's total gross sales of the product in consideration, or for imports used in the production of final products, requestors must provide the percentage of the total cost of producing the final product and percentage of total gross sales; and
- The rationale for the requested exclusion (i.e., whether the product is available from a source outside of China; whether the additional duties would cause severe economic harm to the requestor or other US interest; and/or whether the particular product is strategically important or related to Chinese industrial programs (i.e., "Made in China 2025").

Deloitte's Global Trade Advisory specialists are part of a global network of professionals who can provide specialized assistance to companies in global trade matters. Our professionals can help companies seeking to manage the impacts and potential impacts of the developments described above by:

- Preparing exclusion requests;
- Obtaining and analyzing import data to assess the potential impacts of the trade measures;
- Examining supply chains and imported products to determine opportunities to manage increased costs due to the additional tariffs;
- Conducting strategic sourcing reviews to identify potential alternative sources of affected products;
- Scrutinizing the accuracy of tariff classifications;
- Considering tariff engineering opportunities;
- Reviewing Incoterms used in contracts to confirm responsibilities for customs duty payments; and

- Undertaking customs valuation planning to manage the impacts of the additional tariffs.

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