



# FedEx Regulatory Alerts & Updates

## **Regulatory Alert: U.S. Section 301 Tariff Actions Against China**

June 21, 2018

### **BACKGROUND INFORMATION**

In August of 2017, the U.S. Trade Representative (USTR) commenced an investigation under Section 301 of the Trade Act of 1974 into the Chinese government's acts, policies and practices related to technology transfer, intellectual property and innovation.

In a Memorandum signed on March 22, 2018, the President directed his Administration to take a range of actions responding to China's acts and practices. USTR has proposed an additional 25 percent tariff on certain products of China, with an annual trade value commensurate with the harm believed to be caused to the U.S. economy.

On April 3, 2018, USTR issued a proposed list of 1,333 products that would be subject to the additional 25 percent duty. USTR received comments from the trade and held a three-day public hearing to investigate the potential impacts of the tariffs. As a result, products including mobile phones and televisions were removed from the proposed list of affected Harmonized Tariff System (HTS) numbers.

### **WHAT HAS CHANGED?**

On May 29, 2018, the White House issued a statement announcing that 25 percent tariffs will be issued on \$50 billion worth of products originating in China. The USTR split the final list of affected products into two sets:

- The first set contains 818 HTS lines comprising approximately \$34 billion worth of imports from China. U.S. Customs and Border Protection (CBP) will begin to collect the additional duties on July 6, 2018.
- The second set contains 284 HTS lines comprising approximately \$16 billion worth of imports from China. These 284 lines will undergo a public notice and comment process, including a public hearing. After the completion of this process, USTR will issue a final decision on the products from the set that will be subject to additional duty.

When filing the customs entry for a shipment subject to the Section 301 tariffs, the customs broker will apply a Chapter 99 HTS number (9903.88.01) along with the corroborating Chapter 1-97 HTS number.

As per 19 CFR 143.21(a), goods classified in Chapter 99 require formal entry if their value is greater than \$250. This formal entry requirement will have two primary impacts on shipments:

1. The merchandise processing fee (MPF) will be assessed on each of these shipments
2. FedEx Trade Networks (FTN), the designated broker for FedEx Express and FedEx Ground brokerage inclusive service shipments, will require the importer's tax ID number for applicable shipments.

## **Q&A**

### **What types of items are included in the tariff action?**

A link to the full list of HTS numbers for both sets of Section 301 tariffs is provided in the References section below. The first list of 818 items covers subheadings under Harmonized Tariff Schedule of the U.S. (HTSUS) chapters 84, 85, 87, 88, and 90, including ball bearings, engines and motors; construction, drilling, and agricultural machinery; motor vehicles, helicopters, airplanes and motorcycles; and testing, measuring, and diagnostic instruments and devices.

### **How soon will these tariffs affect imports to the U.S.?**

The first set of tariffs on China-origin goods will take effect on July 6, 2018. The second set of tariffs will undergo a public notice and comment process prior to implementation as mentioned above.

### **Are all products imported from China potentially subject to these tariffs?**

It is important to understand that these tariffs apply to goods whose country of origin is China.

Example: If a widget is transported from China to the United States but has a country of origin of South Korea, then the widget would not be subject to the Section 301 tariffs.

**Date of Implementation:** July 6, 2018 (first set)

## **References:**

The USTR press release on the 301 tariffs:

<https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/june/ustr-issues-tariffs-chinese-products>

First set of Section 301 tariffs:

<https://ustr.gov/sites/default/files/enforcement/301Investigations/List%201.pdf>

Second set of Section 301 tariffs:

<https://ustr.gov/sites/default/files/enforcement/301Investigations/List%202.pdf>

Section 301 product list fact sheet:

<https://ustr.gov/about-us/policy-offices/press-office/fact-sheets/2018/june/section-301-product-list-fact-sheet>

19 CFR 143.21(a):

[https://www.govregs.com/regulations/title19\\_chapterI\\_part143\\_subpartC\\_section143.21](https://www.govregs.com/regulations/title19_chapterI_part143_subpartC_section143.21)

83 FR 28710 - Notice of Action and Request for Public Comment Concerning Proposed Determination of Action Pursuant to Section 301:

<https://www.federalregister.gov/documents/2018/06/20/2018-13248/notice-of-action-and-request-for-public-comment-concerning-proposed-determination-of-action-pursuant>