



FedEx Regulatory Alerts & Updates

Regulatory Alert: Current U.S. Section 301 Tariff Actions on China-Origin Goods

May 21, 2019

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 in March 2018, the President directed the USTR to take a range of actions in response to China's acts and practices. The USTR has proposed to utilize additional tariffs on certain products of China. There have been three tranches, or lists, of tariffs implemented upon China-origin goods thus far:

- The first list of tariffs was implemented on July 6, 2018, and impacts 818 HTSUS subheadings at a rate of 25 percent.
- The second list of tariffs was implemented on August 23, 2018, and impacts 279 HTSUS subheadings at a rate of 25 percent.
- The third list of tariffs was implemented on September 24, 2018, and impacted 5,745 HTSUS subheadings at a rate of 10 percent.

There is a link within the References section of this document which provides CBP's consolidated list of HTSUS subheadings affected by the three tranches of tariff actions.

WHAT HAS CHANGED?

First, on May 6, 2019, the President ordered the third list of tariffs affecting 5,745 HTSUS subheadings to be increased from 10 percent to 25 percent. This increase was published in the Federal Register on May 9 and was effective May 10, 2019. The CSMS message 19-000238 posted in the Reference section below reviews the guidance on this tariff increase.

In response to this increase, China announced that effective June 1, 2019, it will create or raise tariff rates on 5,140 HTS subheadings of U.S.-origin goods at rates varying from 5 to 25 percent. The four lists of impacted U.S.-origin goods are posted in the Reference section below.

Second, on May 17, 2019, the USTR posted Docket USTR-2019-0004-0001 in the Federal Register to request comments regarding a fourth list (tranche) of China origin products which could face up to a 25 percent duty increase. The list covers over 3,800 tariff subheadings and has an annual trade value of approximately \$300 billion. Any written comments are due by June 17, 2019. The USTR will also host a public hearing on June 17, 2019, regarding this proposed fourth tranche.

Included in this fourth tranche are smartphones, smart watches, fitness trackers, drones, TVs, PC monitors, flash memory devices and toys. All U.S. tariff subheadings being considered for a duty increase in this fourth tranche are listed at the end of the Federal Register Docket USTR-2019-0004-0001 posted in the References section below.

Q&A

Q1: Are products entered under the Section 321 de minimis exemption subject to Section 301 duties?

A1: No, goods properly entered under Section 321 are not subject to Section 301 duties.

Q2: Is there an exclusion process established for the current three lists?

A2: No. There are exclusions processes established for both lists 1 and 2, but a process has not been released for the third list, and certainly not for the fourth list, which is only in the initial public comment stage. For more information on the exclusion processes that have been published, access the USTR Exclusion Process link posted in the References section.

Q3: Are all products imported from China potentially subject to these tariffs?

A3: It is important to understand that these tariffs apply to goods whose country of origin is China. If an article is transported from China to the United States but has a country of origin of South Korea, then the article would not be subject to the Section 301 tariffs.

Q4: If a China-origin product is imported from a third country to the U.S., do the tariffs apply?

A4: Yes, if the article is on any of the established tariff lists (tranches). For example, if an article of China origin is transported from South Korea to the United States and is on one of the lists, it would be assessed the applicable Section 301 tariff rate.

Q5: Are products of Hong Kong subject to the additional Section 301 duties?

A5: At this time, the additional duties imposed by Section 301 only apply to articles that are products of China. Imported goods that are legitimately the product of Hong Kong or Macau are not subject to the additional Section 301 duties.

References:

CBP's Section 301 Trade Remedies FAQ:

<https://www.cbp.gov/trade/programs-administration/entry-summary/section-301-trade-remedies/faqs>

USTR's Exclusion Process Webpage:

<https://ustr.gov/issue-areas/enforcement/section-301-investigations/section-301-china/section-301-exclusion-process>

Consolidated List of HTS Codes Impacted by Section 301 Tariffs – Published October 2, 2018:

https://www.cbp.gov/sites/default/files/assets/documents/2018-Oct/Section301_HTSUS_Ref-Guide_Oct2-2018.pdf

CSMS Message 19-000238 – UPDATE- Section 301 (Tranche 3) Duties as of May 10, 2019:

https://csms.cbp.gov/viewmssg.asp?Recid=24229&page=&srch_argv=19-000238&srctype=all&btype=&sortby=&sby

Federal Register Docket ID USTR-2019-0004-0001 (notice of fourth tranche of China origin goods):

<https://www.regulations.gov/document?D=USTR-2019-0004-0001>

China's list of U.S. articles that will remain at the 5% tariff effective June 1:

<http://gss.mof.gov.cn/zhengwuxinxi/zhengcefabu/201905/P020190513719205123756.pdf>

China's list of U.S. articles subject to the 10% tariff effective June 1:

<http://gss.mof.gov.cn/zhengwuxinxi/zhengcefabu/201905/P020190513719204715521.pdf>

China's list of U.S. articles subject to the 20% tariff effective June 1:

<http://gss.mof.gov.cn/zhengwuxinxi/zhengcefabu/201905/P020190513719204287788.pdf>

China's list of U.S. articles subject to the 25% tariff effective June 1:

<http://gss.mof.gov.cn/zhengwuxinxi/zhengcefabu/201905/P020190513719203602248.pdf>