



# FedEx Regulatory Alerts & Updates

## Regulatory Alert: U.S. Announces Fourth Tranche of Section 301 Tariff Actions on China Origin Goods

August 23, 2019

### BACKGROUND

In August 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, President Trump directed the USTR to take a range of actions in responding to China's acts and practices. The USTR has proposed the utilization of 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 Harmonized Tariff Schedule of the United States (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 the initial rate of 10 percent. The tariff rate was increased to 25 percent effective May 10, 2019.

The References section of this document has a web link which provides CBP's consolidated list of HTSUS subheadings affected by the first three tranches of tariff actions.

### WHAT HAS CHANGED?

On **May 17, 2019**, the USTR posted Docket USTR-2019-0004-0001 in the Federal Register to request comments regarding a fourth tranche (List 4) of China origin products. The list contained over 3,800 tariff subheadings and had an annual trade value of approximately \$300 billion.

In early August, the Trump administration announced the initial tariff on the List 4 will be 10 percent.

On August 13, 2019, the Trump administration announced that it will delay imposing the tariffs on certain imports from China that are included in the USTR's \$300 billion List 4 trade action. The decision was made to divide the List 4 articles into two separate effective dates: List 4A will be effective on **September 1, 2019**, while List 4B — which includes laptops, video game consoles, cell phones and certain items of footwear and clothing — will be delayed until **December 15, 2019**.

The USTR did submit the fourth tranche of articles impacted by 301 tariff actions in Federal Register Notice (FRN) 84 FR 43304-43471 on August 20, 2019. This FRN is included in the Reference section.

The FRN used four specific Annex sections which segregate both lists 4A and 4B by their respective HTSUS numbers as well as an informal description of the actual product. The purpose and effective date for each of the four Annex sections is listed below:

<b>Annex</b>	<b>Purpose of Annex</b>	<b>Effective Date</b>
Annex A	Contains the HTSUS for List 4A items	September 1, 2019
Annex B	Informal description for the products in List 4A	September 1, 2019
Annex C	Contains the HTSUS for List 4B items	December 15, 2019
Annex D	Informal description for the products in List 4B	December 15, 2019

The USTR also said certain products are being removed from the tariff lists based on health, safety, national security and other factors and will not face additional tariffs of 10 percent.

The specific China origin commodities in the four Annexes above are identified in the Federal Register Notice (FRN) dated August 20, 2019, in the Reference section.

#### **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: Has there been an exclusion process established for this fourth tranche of goods?**

A2: Not yet. There are exclusions published for the prior three tariff actions, but a process has not been established yet for this fourth list. The August 20, 2019, FRN did state "USTR will establish a process by which interested persons may request that particular products classified within an HTSUS subheading covered by Annex A and Annex C be excluded from the additional duties."

**Q3: If a China-origin product is imported from a country other than China to the U.S., do the tariffs apply?**

A3: Yes, if the article is on any of the established tariff lists (tranches). For example, if a product of China origin is transported from Canada to the United States and is on one of the lists, it would be assessed the applicable Section 301 tariff rate.

**Q4: Are products of Hong Kong subject to the additional Section 301 duties?**

A4: 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 SAR\*, China, or Macau SAR, China, are not subject to the additional Section 301 duties.

*\*SAR is the Special Administrative Region; a relatively autonomous region within the People's Republic of China that maintains separate legal, administrative and judicial systems from the rest of the country.*

#### **References:**

CBP's Section 301 Trade Remedies FAQ:

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

Consolidated List of HTS Codes Impacted by first three 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](https://www.cbp.gov/sites/default/files/assets/documents/2018-Oct/Section301_HTSUS_Ref-Guide_Oct2-2018.pdf)

August 20, 2019, Federal Register Notice of Modification of Section 301 Action (includes Lists 4A and 4B of HTS Codes impacted by fourth Section 301 Tariffs):

<https://www.federalregister.gov/documents/2019/08/20/2019-17865/notice-of-modification-of-section-301-action-chinas-acts-policies-and-practices-related-to>