



FedEx Regulatory Alerts & Updates

Regulatory Alert: China – U.S. Tariff Actions September 2019

September 10, 2019

BACKGROUND

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 of 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 four tranches (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%.
- The second list of tariffs was implemented on August 23, 2018, and impacts 279 HTSUS subheadings at a rate of 25%.
- The third list of tariffs was implemented on September 24, 2018, and impacted 5,745 HTSUS subheadings at the initial rate of 10%. The tariff rate was increased to 25% effective May 10, 2019.
- The fourth list of tariffs was announced by the USTR on August 13, 2019, and implemented September 1, 2019 with the total impacted articles divided into two lists: 4A and 4B. List 4A became effective on September 1, 2019 and list 4B is scheduled to commence on December 15, 2019. The tariff rate announced at that time was 10%.

WHAT HAS CHANGED?

After the fourth list of tariffs on China products was announced by the USTR on August 13, 2019, China announced on August 23, 2019 that it would impose tariffs targeting \$75 billion of U.S. products in two increments. The first increment of tariff actions on U.S. goods was effective on September 1, 2019. The second increment will occur on December 15, 2019.

The U.S. then raised the tariff rates on \$550 billion worth of Chinese imports on August 23, 2019 with these actions:

- For the 25% tariffs on approximately \$250 billion worth of articles, **the tariff rate will be increased to 30% effective October 1, 2019.**
- For the 10% tariffs on approximately \$300 billion worth of articles covered in the fourth list announced August 13, 2019, **the tariffs will be increased to 15% effective on the scheduled dates for Lists 4A (September 1, 2019) and 4B (December 15, 2019).**

The USTR posted Federal Register Notices (FRN) on both of these recent actions, and they are listed in the Reference 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: Has a date been announced for an exclusion process encompassing this fourth tranche of goods?

A2: An exclusion process has not been established as of September 10, 2019, for this fourth list. It is anticipated that there will be exclusion requests for the products comprising Lists 4A and 4B in the fourth tranche as it was announced in the August 20, 2019 FRN. Note that an exclusion request for List 3 products can be filed up until September 30, 2019.

Q3: How can I determine if my commodity is on any of the four tranches listed above?

A3: There is a 301 Tariff determination tool at the USTR website which allows customers to determine if their product is under a specific 301 Tariff action. The customer must provide the harmonized tariff up to the eighth digit; it is recommended the HTSUS be used for this. Once the proper HTSUS code is entered, hit SEARCH to obtain the results.

The 301 Tariff determination tool is located here: <https://ustr.gov/issue-areas/enforcement/section-301-investigations/search>

References:

USTR Notice of Modification of Section 301 Action published August 30, 2019 (increase to 15%):
<https://www.federalregister.gov/documents/2019/08/30/2019-18838/notice-of-modification-of-section-301-action-chinas-acts-policies-and-practices-related-to>

USTR Request for Comments Concerning Proposed Modification of Pursuant to Section 301 published September 3, 2019 (increase to 30%):
<https://www.federalregister.gov/documents/2019/09/03/2019-18946/request-for-comments-concerning-proposed-modification-of-action-pursuant-to-section-301-chinas-acts>

CBP Cargo Systems Messaging Service (CSMS) Notice on the Tranche 4 increase to 15% (Lists 4A and 4B):
https://content.govdelivery.com/bulletins/gd/USDHSCBP-25c0f6a?wgt_ref=USDHSCBP_WIDGET_2

China list of U.S. articles impacted by their August 23, 2019 tariff action (The information is in Chinese – at the bottom of the page are two links ending in .pdf to annexes that provide the HTS numbers for China’s “List I” and “List II” of this \$75 billion action):
http://gss.mof.gov.cn/zhengwuxinxi/zhengcefabu/201908/t20190823_3372928.html