



# FedEx Regulatory Alerts & Updates

## Regulatory Alert: China – U.S. Tariff Actions October 2019

October 22, 2019

### BACKGROUND

In August 2017, the U.S. Trade Representative (USTR) commenced an investigation of Chinese government trade policies and practices under Section 301 of the Trade Act of 1974. As a result of this investigation, there have been a series of four tranches, or lists, of tariffs implemented upon China-origin goods since summer 2018:

- The first list of tariffs was implemented on July 6, 2018, and impacts 818 Harmonized Tariff Schedule of the U.S. (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 impacts 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 with a 10% tariff rate, and list 4B is scheduled to commence on December 15, 2019 with a 10% tariff rate.

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 Lists 4A and 4B of Chinese imports on August 23, 2019 with these actions:

- For the 10% tariffs on approximately \$250 billion worth of articles in 4A, the tariff rate will be increased to 15% effective October 1, 2019.
- For the 10% tariffs on approximately \$300 billion worth of articles in 4B, the tariff rate will be increased to 15% effective December 15, 2019.

### WHAT HAS CHANGED?

Below is an overview of various tariff actions that took place from mid-September 2019 through mid-October 2019.

September 11, 2019 - these two actions took place:

1. China released its first batch of tariff exemptions for U.S. goods. There are a total of 16 product exemptions on two lists. The goods will be excluded from China's first round of retaliatory tariffs in response to U.S. Section 301 tariffs. The exclusion period began on

Sept. 17, 2019 and ends on Sept. 16, 2020. China announced that it does plan to publish more exemptions in the future. China will offer refunds of tariff payments already collected on the first list of exempted items, but will offer only exemptions, not refunds, on the second list of items. Companies are eligible to receive refunds as long as they apply for them within six months from the implementation date (by March 16, 2020).

2. President Trump announced the earlier tariff rate increase of 5% for the 4A list scheduled for October 1, 2019 was delayed until October 15, 2019.

September 17, 2019 through October 2, 2019 - the USTR released a total of five Section 301 Tariff exclusion actions. There were three on September 20, 2019 and two on October 2, 2019 as follows:

- List 1 (\$34B action) on September 20, 2019 had 310 separate exclusions granted; assigned Harmonized Tariff Schedule (HTS) code 9903.88.14; all are retroactive to the initial date of the tariff announcement (July 6, 2018) and are valid until September 20, 2020.
- List 2 (\$16B action) on September 20, 2019 had 89 separate exclusions granted; assigned HTS code 9903.88.17; all are retroactive to the initial date of the tariff announcement (August 23, 2018) and are valid until September 20, 2020.
- List 3 (\$200B action) on September 20, 2019 had 38 separate exclusions granted; assigned HTS code 9903.88.18; all are retroactive to the initial date of the tariff announcement (Sept. 24, 2018) and are valid until September 20, 2020.
- List 1 (\$34B action) on October 2, 2019 had 92 separate exclusions granted; assigned HTS code 9903.88.19; all are retroactive to the initial date of the tariff announcement (July 6, 2018) and are valid until October 2, 2020.
- List 2 (\$16B action) on October 2, 2019 had 111 separate exclusions granted; assigned HTS code 9903.88.20; all are retroactive to the initial date of the tariff announcement (August 23, 2018) and are valid until October 2, 2020.

October 11, 2019 - President Trump announced a “phase 1” deal between the U.S. and China in the Oval Office with these key points:

- Negotiators for both countries came to a deal on intellectual property, financial services and agricultural sales.
- Good progress had been made on issues pertaining to technology transfer issues.

The president also announced the planned October 15, 2019 tariff increase actions were cancelled. The president said that the next phase of trade talks would begin immediately after the first deal is signed, which could take upwards of five weeks.

## **Q&A**

**Q1: Is there a single source listing all of the Section 301 duty actions taken to date available to the public?**

A1: Yes, such a list is included in the Cargo Systems Messaging Service (CSMS) # 39587690. There is also a summarized list of all USTR exclusion actions taken to date. The CSMS message link can be found in the References section below.

**Q2: Is there a list of the U.S. products that China included in their September 11, 2019 exclusion list?**

A2: Yes, there are two lists in Chinese with the 8-digit tariff subheadings below in the References section.

**Q3: Has a date been announced for an exclusion process encompassing the fourth tranche of goods (Lists 4A and 4B)?**

A3: An exclusion process has not been established as of October 21, 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 Federal Register Notice.

**Q4: How can I determine if my commodity is on any of the four tranches listed above?**

A4: There is a 301 Tariff determination tool in 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 can be found in the “How to Navigate the Section 301 Process” link below in the References section.

**Q5: Is the December 15, 2019 tariff increase of 5% for List 4B still in effect?**

A5: Yes, as of October 21, 2019 that List 4B increase from 10% to 15% is scheduled to occur on December 15, 2019.

**REFERENCES:**

USTR How to Navigate the Section 301 Process

<https://ustr.gov/issue-areas/enforcement/section-301-investigations/search>

CSMS # 39587690

[https://content.govdelivery.com/bulletins/gd/USDHSCBP-25c0f6a?wgt\\_ref=USDHSCBP\\_WIDGET\\_2](https://content.govdelivery.com/bulletins/gd/USDHSCBP-25c0f6a?wgt_ref=USDHSCBP_WIDGET_2)

China exclusion list 1 (12 items)

<http://gss.mof.gov.cn/zhengwuxinxi/zhengcefabu/201909/P020190911467873521723.pdf>

China exclusion list 2 (4 items)

<http://gss.mof.gov.cn/zhengwuxinxi/zhengcefabu/201909/P020190911467873838893.pdf>

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[https://www.fedex.com/content/dam/fedex/us-united-states/International/images/2020/Q2/RegAlert\\_20\\_015\\_China\\_U\\_S\\_Tariff\\_Actions\\_September\\_2019\\_1816927747.pdf](https://www.fedex.com/content/dam/fedex/us-united-states/International/images/2020/Q2/RegAlert_20_015_China_U_S_Tariff_Actions_September_2019_1816927747.pdf)