



# FedEx Regulatory Alerts & Updates

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

November 21, 2019

### BACKGROUND

In August of 2017, the U.S. Trade Representative (USTR) commenced an investigation of Chinese government trade policies and practices. 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 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 was to become effective on September 1, 2019, and list 4B on December 15, 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 lists 4A and 4B of Chinese imports to 15%, set for October 15, 2019 and December 15, 2019, respectively; the U.S. also notified the trade that lists 1, 2, and 3 would be increased from 25% to 30% on October 15, 2019.

When China and the U.S. jointly announced a “phase one” trade deal on October 11, 2019, the U.S. cancelled the planned October 15, 2019 increase to 30% for lists 1, 2, and 3.

### WHAT HAS CHANGED?

Below is an overview of various tariff actions that took place from October 22, 2019 through November 20, 2019.

*October 24, 2019* - The USTR announced it will open the exclusion request process for HTS numbers on list 4A. List 4A includes products covered by Annex A of the August 20, 2019 notice (84 FR 43304) that are subject to 15% duty as of September 1, 2019.

This exclusion portal opened at noon EDT on October 31, 2019, and closes at 11:59 p.m. ETD on January 31, 2020. The basic rules governing the process include:

- Requesters must first register on the portal to submit an exclusion request

- The requester must provide very specific information for each exclusion request such as the 10-digit subheading of the HTSUS, product name, description of product, product function, gross revenue information, and other criteria (details in the USTR link below)
- Responses to individual exclusion requests are due 14 days after the USTR posts the request on the online portal
- Once the final exclusion list is determined and posted by the USTR, the exclusion will be effective for one year, starting from the September 1, 2019 effective date

*October 28, 2019* - The USTR released a Federal Register Notice (FRN) on October 28, 2019, which granted 83 exclusion requests to the Section 301 duties levied on goods from China. This FRN affects goods on list 3 which currently has a 25% section 301 tariff charge.

These product exclusions will apply as of the September 24, 2018 effective date of the \$200 billion list 3 action and will last until August 7, 2020. The assigned HTS code that applies to this round of exclusions is 9903.88.33.

The 83 articles which have been excluded are listed sequentially by their statistical HTSUS code in the ANNEX section of the October 28, 2019 FRN below.

*November 13, 2019* - The USTR issued a new set of 36 additional exclusion requests to the section 301 duties levied on goods from China. This new list also affects goods on list 3 which currently has a 25% section 301 tariff charge.

These product exclusions for list 3 will also apply as of the September 24, 2018 effective date of the \$200 billion List 3 action and lasts until August 7, 2020. The assigned HTS code that applies to this round of exclusions is 9903.88.34.

The 36 articles which have been excluded are listed sequentially by number with a specific description and the statistical HTSUS code on pages 5-8 of the USTR Notice below.

This is the fourth set of list 3 items to be granted exclusions. The prior exclusions for list 3 were:

- Set 1 – August 7, 2019 (10 articles identified under 9903.88.13)
- Set 2 – September 20, 2019 (38 articles identified under 9903.88.18)
- Set 3 – October 28, 2019 (83 articles identified under 9903.88.33)

## **Q&A**

### **Q1: How can I determine if my commodity is on any of the four tranches listed above as well as updated product exclusion information?**

A1: 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.

This USTR website also has individual web pages for each of the product exclusion actions taken on the four lists to date.

The 301 Tariff Process page can be found in the “How to Navigate the Section 301 Process” link below in the References section.

### **Q2: Are products entered under the section 321 de minimis exemption subject to section 301 duties?**

A2: No, goods properly entered under section 321 are not subject to section 301 duties.

**REFERENCES:**

The USTR announcement on Oct. 24, 2019 of the List 4A exclusion process

[https://ustr.gov/sites/default/files/enforcement/301Investigations/Procedures for Requests to Exclude Particular Products from the August 2019 Action.pdf](https://ustr.gov/sites/default/files/enforcement/301Investigations/Procedures%20for%20Requests%20to%20Exclude%20Particular%20Products%20from%20the%20August%202019%20Action.pdf)

The Oct. 28, 2019 Federal Register Notice (FRN) citing the 83 specific exclusions to List 3

<https://www.federalregister.gov/documents/2019/10/28/2019-23441/notice-of-product-exclusions-chinas-acts-policies-and-practices-related-to-technology-transfer>

The Nov. 13, 2019 Federal Register Notice (FRN) citing the 36 additional exclusions to List 3

[https://ustr.gov/sites/default/files/enforcement/301Investigations/%24200 Billion Exclusions Granted November.pdf](https://ustr.gov/sites/default/files/enforcement/301Investigations/%24200%20Billion%20Exclusions%20Granted%20November.pdf)

USTR How to Navigate the Section 301 Process

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