



FedEx Regulatory Alerts & Updates

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

December 23, 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 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 was to become effective on December 15, 2019. The U.S. then raised the tariff rates on Lists 4A and 4B of Chinese imports on August 23, 2019 to 15%, set for October 15, 2019 and December 15, 2019, respectively, and 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.

The USTR announced an exclusion process for List 4A; the portal opened on October 31, 2019, and it closes on January 31, 2020.

The USTR also announced two new exclusion requests notices on October 28, 2019, and November 13, 2019, totaling 119 additional HTS codes from List 3.

WHAT HAS CHANGED?

Below is an overview of various tariff actions that took place from November 20, 2019 through December 21, 2019.

November 29, 2019 -- The Office of the USTR issued a new set of 32 additional exclusion requests to the Section 301 duties levied on goods from China. This new set also affects goods on List 3, which currently has a 25% Section 301 tariff charge.

These product exclusions for Set 5 of 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 9903.88.35.

The 32 articles which have been excluded are listed sequentially by number with a specific description and the statistical HTSUS code on pages 3 and 4 of the USTR Notice below.

December 12, 2019 – The USTR issued a new set of 44 additional exclusion requests to the Section 301 duties levied on goods from China. This new set also affects goods on List 3, which currently has a 25% Section 301 tariff charge.

These product exclusions for Set 6 of 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 9903.88.36.

The 44 articles which have been excluded include 9 ten-digit HTSUS subheadings and 35 specially prepared product descriptions. All of them are listed sequentially by number with a specific description and the statistical HTSUS code on pages 6-9 of the USTR Notice below.

This is the SIXTH 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)
- Set 4 – November 7, 2019 (36 articles identified under 9903.88.34)
- Set 5 – November 29, 2019 (32 articles identified under 9903.88.35)

December 13, 2019 – The USTR announced that the U.S. and China agreed to a “Phase One” trade deal that includes the following key provisions. The final text of the agreement is scheduled to be released in early January:

1. China will make substantial additional purchases of U.S. goods and services in the coming years, starting in 2020.
2. There will be changes to China’s trade regime in the areas of intellectual property, technology transfer, agriculture, financial services, and currency and foreign exchange.
3. There were reduction activities in the Section 301 tariff actions for both countries:
 - a. The U.S. dropped the planned December 15 List 4B tariffs on China goods while maintaining the 25% Lists 1, 2, and 3 tariffs on approximately \$250 billion of Chinese imports. Additionally, the List 4A tariffs on approximately \$120 billion of Chinese imports are reduced from 15% to 7.5%.
 - b. China suspended the planned additional tariffs on some U.S. products, which were set for 10% and 5% additional tariffs. Other additional tariff measures will continue to be implemented, and work on tax exemptions for imports from the U.S. will proceed.
4. The agreement establishes a dispute resolution system for implementation and enforcement.

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 that 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 site 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: Has an effective date been determined for this Phase One deal?

A2: It is anticipated that both the USTR and China Vice Premier Liu He will sign the agreement in early January in Washington, and it will be released publicly afterwards. The actual effective date would be 30 days after the official signing.

Q3: Have China and the U.S. completed their trade deal?

A3: No, Phase Two negotiations are scheduled to commence in early 2020.

REFERENCES:

The November 29, 2019, Federal Register Notice (FRN) citing the 32 additional exclusions to List 3: https://ustr.gov/sites/default/files/enforcement/301Investigations/%24200_Billion_Exclusions_Granted-November.pdf

The December 12, 2019, Federal Register Notice (FRN) citing the 44 additional exclusions to List 3: https://ustr.gov/sites/default/files/enforcement/301Investigations/%24200_Billion_Exclusions_Granted_December.pdf

The December 19 CBP CSMS Guidance on Tranche 3 Sixth Round of Product Exclusions from China: https://content.govdelivery.com/bulletins/gd/USDHSCBP-2726a65?wgt_ref=USDHSCBP_WIDGET_2

The December 13, 2019 USTR announcement of the Phase One Trade Agreement with China: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2019/december/united-states-and-china-reach>

The December 15, 2019, China Xinhua News Agency announcement on tariff reduction and other actions: http://www.xinhuanet.com/english/2019-12/15/c_138632614.htm

USTR How to Navigate the Section 301 Process:

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