



FedEx Regulatory Alerts & Updates

Regulatory Alert: China and U.S. Tariff Actions February 2020

February 17, 2020

BACKGROUND

In August of 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 – September 1, 2019 and 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.

The USTR announced four new exclusion requests notices between October 28, 2019, and December 12, 2019 totaling 195 additional HTS codes from List 3.

China and the U.S. signed their Phase One trade deal on January 15, 2020.

WHAT HAS CHANGED?

Below is an overview of various tariff actions that took place from January 16, 2020 through February 13, 2020.

January 22, 2020 – The U.S. and China Phase One trade agreement signed on January 15, 2020 announced the reduction of List 4A tariffs from 15% to 7.5%. The USTR published official notice on January 22, 2020 (85 FR 3741) that the reduction is scheduled to enter into force on February 14, 2020. The HTSUS number for List 4A duty sanctions remains as 9903.88.15.

January 31, 2020 – The Office of the U.S. Trade Representative (USTR) issued a new set of 119 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.

This is the EIGHTH 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)
- Set 6 – December 12, 2019 (44 articles: identified under 9903.88.36)
- Set 7 – December 31, 2019 (68 articles: identified under 9903.88.37)

These product exclusions for Set 8 of List 3 will also apply as of the September 24, 2018 effective date of the \$200 billion List 3 action and last until August 7, 2020. The assigned HTS code that applies to this round of exclusions is 9903.88.38.

The 119 articles which have been excluded are listed sequentially by number with a specific description and the statistical HTSUS code on pages 3 – 12 of the USTR Notice below.

February 6, 2020 – China's Ministry of Finance said it will halve tariffs on \$75 billion worth of U.S. imports beginning February 14, 2020. China said tariffs on some U.S. goods will fall from 10% to 5% while others will drop from 5% to 2.5%. The tariffs stem from China's September 1 tranche of tariffs.

February 11, 2020 – The Office of the U.S. Trade Representative (USTR) issued a new set of 4 additional exclusion requests to the Section 301 duties levied on goods from China. This new set affects goods on List 1 which currently has a 25% Section 301 tariff charge.

These product exclusions for List 1 will also apply as of the July 6, 2018 effective date of the \$200 billion List 3 action and last until October 2, 2020. The assigned HTS code that applies to this round of exclusions is 9903.88.19.

The 4 additional articles which have been excluded are listed sequentially by number with a specific description and the statistical HTSUS code on page 2 in the ANNEX section of the USTR Notice 02684 below.

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 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: The Phase One trade agreement is effective February 14, 2020.

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 Jan. 31, 2020 Federal Register Notice (FRN) citing the 119 additional exclusions to List 3:
[https://ustr.gov/sites/default/files/enforcement/301Investigations/%24200 Billion Exclusions Granted January 31.pdf](https://ustr.gov/sites/default/files/enforcement/301Investigations/%24200%20Billion%20Exclusions%20Granted%20January%2031.pdf)

The Jan. 22, 2020 Federal Register Notice (FTN) announcing the reduction of the List 4A tariffs from 15% to 7.5%:

<https://www.federalregister.gov/documents/2020/01/22/2020-00904/notice-of-modification-of-section-301-action-chinas-acts-policies-and-practices-related-to>

The Feb. 11, 2020 Federal Register Notice (FRN 7816) announcing the 4 additional exclusions to List 1:

<https://www.govinfo.gov/content/pkg/FR-2020-02-11/pdf/2020-02684.pdf>

USTR How to Navigate the Section 301 Process:

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