



FedEx Regulatory Alerts & Updates

Regulatory Alert: China and the U.S. Tariff Actions June 2020

June 24, 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 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 was to become effective on September 1, 2019, and list 4B on December 15, 2019. The tariff rate on List 4A was reduced from 15% to 7.5% on February 14, 2020.

The USTR has previously announced fourteen exclusion request notices between October 28, 2019 and April 10, 2020, totaling 8 HTS codes from List 1, 542 additional HTS codes from List 3, and 20 medical product HTS codes from List 4.

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

China's Ministry of Finance announced tariff reductions on specific U.S. goods effective February 14; some will fall from 10% to 5%, while others will drop from 5% to 2.5%.

What has changed?

Below is an overview of various tariff actions that took place from May 18, 2020, through June 21, 2020.

May 22, 2020 - The Office of the USTR issued a new set of 78 additional exclusion requests to the Section 301 duties levied on goods from China. This new set affects goods on List 3. The products covered by the exclusion action include chemicals, pigment pastes, machine tools, and LEDs.

This is the fourteenth 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)

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- 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)
- Set 8 – January 31, 2020 (119 articles identified under 9903.88.38)
- Set 9 – February 20, 2020 (47 articles identified under 9903.88.40)
- Set 10 - March 12, 2020 (5 articles identified under 9903.88.41)
- Set 11 – March 26, 2020 (177 articles identified under 9903.88.43)
- Set 12 – April 22, 2020 (108 articles identified under 9903.88.45)
- Set 13 – May 8, 2020 (146 articles identified under 9903.88.46)

These product exclusions for Set 14 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 **9903.88.48**.

June 2, 2020 – The Office of the USTR published 16 exclusions extensions. Customers should be aware that the USTR has given these extensions a new Chapter 99 and U.S. Note 20 designation. These specific extensions are retroactive to June 4, 2019 and valid through December 31, 2020. The assigned HTS code that applies to these extensions is **9903.88.50**.

June 9, 2020 - The Office of the USTR on June 9, 2020 issued a new set of 34 additional exclusion requests to the Section 301 duties levied on goods from China. This new set affects goods on List 4. The products covered by the exclusion action include gloves, shells for pillows and comforters, spectacle frames, wristwatch cases, bands and hands, and additional articles.

This is the fifth exclusion action to List 4. This set of new exclusions will apply from September 1, 2019, the effective date of the \$300 billion action, and will extend for one year to September 1, 2020. The assigned HTS code that applies to this round of exclusions is **9903.88.49**.

Q & A

Q1: How can I determine if my commodity is included in any of the four tariff actions or find 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: How can I initiate 301 tariff refunds on articles now granted exclusions if past duty and taxes were billed by FedEx Express?

A2: U.S. importers may have some prior import shipments that were cleared since September 2019, and had the additional 301 tariff applied. For those shipments, the importer will need to know what entity cleared their shipment.

If FedEx Logistics (FXL) made the entry for the FXE shipment, you will need to use the established duty and tax protest process to arrange for the Post Summary Correction (PSC) or to protest the liquidation of the entry. The reason for a refund would be an active USTR product exclusion list, which the customer should cite in their protest action.

The FedEx Duty Dispute team can be reached in two ways:

- Toll free 800.622.1147 (menu 5, then 1) or
- Email to dutytaxdisputes@fedex.com

If the shipment was imported under the Broker Select Option (BSO), you need to coordinate the PSC or protest with the broker who cleared their shipment.

References:

The May 22, 2020 Federal Register Notice (FRN) citing the 78 additional exclusions to List 3:

https://ustr.gov/sites/default/files/enforcement/301Investigations/%24200_Billion_Exclusions_Granted_May_2020.pdf

The June 2, 2020 Federal Register Notice (FRN) citing the 16 exclusion extensions:

<https://www.federalregister.gov/documents/2020/06/02/2020-11833/notice-of-product-exclusion-extensions-chinas-acts-policies-and-practices-related-to-technology>

The June 9, 2020 Federal Register Notice citing the 34 exclusion extensions to List 4:

https://ustr.gov/sites/default/files/enforcement/301Investigations/%24300_Billion_Exclusions_Granted_June.pdf

USTR How to Navigate the Section 301 Process:

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