



FedEx Regulatory Alerts & Updates

Regulatory Alert: China – U.S. Tariff Actions August 2020

August 20, 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 July 25, 2020 through August 20, 2020.

July 28, 2020 - The USTR granted extensions to 14 exclusions from List 2 Section 301 tariffs on goods from China that were due to expire July 31, 2020. The 55 exclusions that were not

Content Intended for FedEx Express Customers Only

extended, all listed in U.S. Note 20(o) to subchapter III of chapter 99 and filed under subheading 9903.88.12, expired on July 31, 2020.

The final 14 extended exclusions have been moved to new U.S. Note 20(ggg) and subheading 9903.88.54. They are now scheduled to expire December 31, 2020.

August 6, 2020 - 725 of the nearly 1,000 exclusions from List 3 Section 301 China tariffs expired on August 7, 2020. The USTR did not extend them. In a notice released Aug. 6, 2020, the USTR only granted extensions to 266 of the nearly 1,000 published List 3 exclusions.

The remaining 266 extended exclusions have been moved to new U.S. Note 20 (iii) and subheading 9903.88.56. They are now scheduled to expire on December 31, 2020.

August 11, 2020 - The USTR issued a new set of 10 additional exclusion requests to the Section 301 duties levied on goods from China. This new set affects goods on List 4. Some of the products covered by the exclusion action include slingshot apparatus, decorative glassware, digital optical image scanners, plastic locking zip tie fasteners, and dust barrier kits.

This is the eighth exclusion action to List 4. The current tariff rate on the articles is 7.5%. This set of exclusions will apply from September 1, 2019, the effective date of the \$300 billion action, and will extend through September 1, 2020. The assigned HTS code that applies to this round of exclusions is 9903.88.55.

Q & A

Q1: How can I determine if my commodity is on any of the four tariff actions taken thus far as well as updated product exclusion information? Consider re-wording to something like, “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; however, the shipments were imported in the past and if past duty and taxes were billed by FedEx Express?

A2: U.S. importers could very well have some may have prior import shipments that were cleared since September 2019 and DID have 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, customers 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 obviously be an active USTR product exclusion list, which the customer should site 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 BSO, the customer needs to coordinate the PSC or protest with the broker who cleared their shipment.

Q3: What happens on the expiration dates to the various articles in List 2 and 3 that had been previously excluded from the tariff actions?

A3: The respective 301 tariffs are now assessed on U.S. imports of the 55 goods from List 2 on July 31, 2020 and on the 725 goods from List 3 on August 7, 2020.

REFERENCES:

The July 28, 2020 Federal Register Notice citing the Notice of Extensions for Exclusions Expiring July 31, 2020:

[https://ustr.gov/sites/default/files/enforcement/301Investigations/%2416 Billion Exclusion Extensions July 2020.pdf](https://ustr.gov/sites/default/files/enforcement/301Investigations/%2416%20Billion%20Exclusion%20Extensions%20July%202020.pdf)

The August 6, 2020 Federal Register Notice citing the Notice of Extensions for Exclusions Expiring August 7, 2020:

[https://ustr.gov/sites/default/files/enforcement/301Investigations/Notice of Extensions for Exclusions Expiring August 7 2020.pdf](https://ustr.gov/sites/default/files/enforcement/301Investigations/Notice_of_Extensions_for_Exclusions_Expiring_August_7_2020.pdf)

The August 11, 2020 Federal Register Notice citing the ten exclusions to List 4:

<https://www.federalregister.gov/documents/2020/08/11/2020-17440/notice-of-product-exclusions-and-amendments-chinas-acts-policies-and-practices-related-to-technology>

USTR How to Navigate the Section 301 Process:

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