



FedEx Regulatory Alerts & Updates

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

September 23, 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.

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%.

The USTR has previously announced fifteen exclusion request notices between October 28, 2019 and August 11, 2020 totaling 8 HTS codes from List 1, 542 additional HTS codes from List 3 and 30 HTS codes from List 4. The USTR has also announced extensions to prior exclusion actions in July and August 2020. These 280 HTS codes are now set to expire on December 31, 2020. In an August notice the USTR also announced 725 exclusions from List 3 Section 301 China tariffs would expire on August 7, 2020.

WHAT HAS CHANGED?

Below is an overview of various tariff actions that took place from August 21, through September 22, 2020.

September 17, 2020 – The USTR granted extensions to 62 of the 310 exclusions listed in U.S. Note 20(q) and filed under HTS subheading 9903.88.14. The USTR also granted extensions to 17 of the 86 exclusions listed in U.S. Note 20(v) and filed under HTS subheading 9903.88.17.

This means 317 of the exclusions from Lists 1 and 2 of Section 301 China tariffs ended on September 20, 2020 since the USTR did not include them in two notices of exclusion extensions released Sept. 17, 2020.

The 79 extended exclusions will expire on December 31, 2020.

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?

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 broker select option (BSO), the customer needs to coordinate the PSC or protest with the broker who cleared their shipment.

REFERENCES:

The September 17, 2020 Federal Register Notice citing the Notice of List 1 Extensions for Exclusions Expiring September 20, 2020:

https://ustr.gov/sites/default/files/enforcement/301Investigations/%2434_Billion_Extensions_For_Exclusions_September_2020.pdf

The September 17, 2020 Federal Register Notice citing the Notice of List 2 Extensions for Exclusions Expiring September 20, 2020:

https://ustr.gov/sites/default/files/enforcement/301Investigations/%2416_Billion_Exclusion_Extensions_September_2020.pdf