

USTR Increases Section 301 Tariffs on List 3 Products to 25% and Announces Additional Tariffs on Remaining Imports from China

May 13, 2019

Key Points

- Following a setback in U.S.-China trade negotiations, the USTR has increased the Section 301 List 3 additional duty rate on \$200 billion of Chinese-origin products from 10% to 25% (the rate already in effect for \$50 billion of products on Lists 1 and 2).
- The duty rate increase applies to over 5,700 HTSUS subheadings that cover food items, chemical intermediates, textile intermediates, fuel products, metal tools and housewares, electric and electronic consumer devices, vehicle components, and furniture, among others.
- The increased duty rate applies to covered products that are entered into the United States on or after May 10, 2019, and exported to the United States on or after May 10, 2019. Covered products exported to the United States prior to May 10 are eligible for the preexisting 10% duty rate, provided they are entered into the United States before June 1, 2019.
- USTR confirmed that it will establish a process for requesting exclusions from the tariffs for List 3 products.
- USTR also announced a forthcoming public notice and comment process in connection with a Presidential directive to impose 25% duties on all remaining Chinese-origin products

Introduction and Background

On May 9, 2019, the Office of the U.S. Trade Representative (USTR) announced an increase in the rate of additional Section 301 duties, from 10% to 25%, on imports that are covered by List 3 of the Section 301 Action on Chinese-origin products. List 3 covers \$200 billion in products that have been subject to 10% additional duties since its September 24, 2018, effective date. The 10% duty rate was initially set to increase to 25% on January 1, 2019, but USTR postponed the increase – first until March 2, 2019, and later indefinitely – following the onset and progression of U.S.-China trade negotiations.

Contact Information

If you have any questions concerning this alert, please contact:

Lars-Erik Hjelm

Partner
lhjelm@akingump.com
Washington, D.C.
+1 202.887.4175

Suzanne Kane

Counsel
skane@akingump.com
Washington, D.C.
+1 202.887.4037

Nicholai C. Diamond

Associate
ndiamond@akingump.com
Washington, D.C.
+1 202.887.4301

Bernd G. Janzen

Partner
bjanzen@akingump.com
Washington, D.C.
+1 202.887.4309

Shana A. Hofstetter

Counsel
shofstetter@akingump.com
Washington, D.C.
+1 202.887.4473

Sarah B. W. Kirwin

Associate
skirwin@akingump.com
Washington, D.C.
+1 202.887.4313

Thor Petersen

Associate
tpetersen@akingump.com
Washington, D.C.
+1 202.887.4307

The May 9 action comes on the heels of a setback in those negotiations. On May 5, 2019, via Twitter, President Trump alluded to the slow pace of negotiations and to China's alleged renegotiation attempts, and announced the duty rate increase on List 3 products.

The President also suggested that further 25% additional duties on the remaining "untaxed" \$325 billion in Chinese-origin imports would follow "shortly." [In a May 10, 2019, statement](#), USTR Robert Lighthizer announced that, pursuant to an order by the President, the USTR will initiate the process for implementing 25% tariffs on "all remaining imports from China." The USTR will post details on the upcoming process to its website on May 13, 2019.

Products Impacted by the List 3 Increase

The List 3 increase applies to Chinese-origin products that are covered by a subheading or product description listed in Note 20(f) or 20(g) to Chapter 99, Subchapter III, of the Harmonized Tariff Schedule of the United States (HTSUS). Notes 20 (f) and 20(g) implement [List 3](#) and cover over 5,700 full and partial subheadings, which in turn apply to the following products (among others):

- Fruits, vegetables, grains, beans, nuts, seafoods, and other food items.
- Salt, quartz, marble, granite, dolomite, limestone, iron ores, and other mineral products.
- Coal, petroleum products, natural gases, biodiesels, and other fuels.
- Rubbers, plastics, and other polymers, chemical compounds, and chemical intermediates.
- Fertilizers, dyes, paints, inks, cosmetics, soaps, polishes, insecticides and herbicides, and other chemical products.
- Intermediate and finished wood and paper products.
- Fibers, yarns, and weaves of wool, cotton, nylon, rayon, polyester, and other textile materials.
- Carpets, hats, various bags, and other finished textile products.
- Ceramic tiles and wares, building stone, cement, and other stone products.
- Glass fibers, glass substrates, glassware, and other glass products.
- Diamonds, gold, silver, platinum, and other precious metals.
- Iron and steel pipe fittings, structures, containers, appliances, housewares and kitchenwares, nails, screws, and bolts.
- Metal pliers, bolt cutters, shears, saws, hammers, screwdrivers, tweezers, brackets, rivets, and tool sets.
- Air conditioners, refrigerators, freezers, microwaves, dryers, fans, lamps, and other household appliances.
- Photocopiers, monitors, automatic teller machines, vending machines, and other commercial and office appliances.

Contact Information

If you have any questions concerning this alert, please contact:

Andrew R. Schlossberg
Associate
aschlossberg@akingump.com
Washington, D.C.
+1 202.887.4314

- Printed circuit boards, printed circuit assemblies, disk drive storage units, panel and screen assemblies, and other components of electronic appliances.
- Engines, transmission belts, transmission shafts and cranks, gearboxes, tires, rearview mirrors, bumpers, seatbelts, brakes, and other vehicle components.
- Bicycles (and components), boats, trailers, and certain other vehicles.
- Chairs, cabinets, tables, beds, and other furniture.

Effective Dates of List 3 Increase and Reporting Instructions for Importers

The increased 25% additional duty rate applies to List 3 products that are entered into the United States on or after May 10, 2019, and exported to the United States on or after May 10, 2019. U.S. Customs and Border Protection (“CBP”) [has instructed](#) importers to report HTSUS subheadings 9903.88.03 or 9903.88.04 for these products.

List 3 products that are exported to the United States before May 10, 2019, and entered into the United States before June 1, 2019, are eligible for the preexisting 10% additional duty rate. [CBP has instructed](#) importers to report HTSUS subheading 9903.88.09 for these products. Additionally, importers who have already paid additional duties of 25% on these products may file Post-Summary Corrections to request refunds of overpayments.

Exclusion Process for List 3 Products

In addition to establishing the additional duty increase, USTR announced that it will implement a process by which interested parties may request the exclusion of certain products from the List 3 additional duties. The USTR has not yet provided further details or a timeline for the process. The process could emulate the [List 1 and List 2 exclusion processes](#), which required requestors to submit (among other things) alternative sourcing information, annual import values and quantities, and product descriptions that are administrable by CBP.

Recommendations and Next Steps

- Importers should continue to review the HTSUS provisions and product descriptions in [List 3](#) to determine whether they import any goods that could potentially be covered by the additional duties. To obtain certainty, importers can validate product classifications by requesting a binding tariff classification ruling from CBP. Akin Gump can advise on tariff classification and assist in preparing a ruling request.
- Importers should track developments in the announced List 3 exclusion process and consider gathering information that may be required for a product exclusion request. Akin Gump can advise on the Section 301 exclusion process to date and, pending further details on the List 3 process, help prepare product exclusion requests.
- Importers should also track developments concerning the potential imposition of 25% duties on the remainder of Chinese-origin imports. As an initial matter, importers should check the USTR’s website beginning on May 13, 2019, for details on the public notice and comment process. Pending publication of the details, Akin Gump can assist in preparing comments for submission to the USTR.

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