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Public Comment Deadlines Loom for Latest Proposed China 301 Tariffs

Client Advisories

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June 5, 2019 – Over the past year, the Trump Administration has imposed tariffs on selected Chinese goods (“China 301 tariffs”) using the authority granted in section 301 of the Trade Act of 1974.

The tariffs, which soon may apply to almost all Chinese imports to the United States, are likely to have a serious impact on global supply chains, the cost of manufacturing in the United States, and consumer prices.

Over the next two weeks, “Domestic Parties” such as importers, purchasers, and trade associations have several opportunities to provide comments to the United States Trade Representative (“USTR”) on a proposed new round of tariffs, as well as the exclusion of certain products from existing tariffs. Each time the public has been invited to comment on proposed China 301 tariffs, USTR has narrowed the list of tariff subheadings.

Background

As reported in previous [client advisories](#), pursuant to Section 301 of the Trade Act of 1974, the President has imposed tariffs on selected Chinese imports.

- A 25% tariff imposed in July 2018 on “[tranche 1](#)” goods, covering 818 tariff subheadings with an approximate annual trade value of \$34 billion.
- A 25% tariff imposed in August 2018 on “[tranche 2](#)” goods, covering 279 tariff subheadings valued at approximately \$16 billion annually.
- A 10% tariff imposed in September 2018 on imported products listed in “[tranche 3](#),” covering 5,745 full and partial tariff subheadings with an approximate annual trade value of \$200 million; and
- On May 9, 2019, the Administration [increased](#) the 10% tariff for imports of products listed in tranche 3 to 25%.

In order to give companies an opportunity to adjust to the tranche 3 modification, which took many by surprise, the Administration decided to implement the tariff increase gradually. Under this plan, the 10% tariff would continue to apply to products that were exported from China before May 10, 2019 and entered the United States before June 1, 2019. On May 31, 2019, USTR issued a [press release](#) indicating that the June 1 entry date would be extended to June 15, 2019.

Tranche 4 Comments

On May 17, 2019, USTR [invited](#) initial public comment on a fourth round of tariffs of “up to 25 percent on products of China with an annual trade value of approximately \$300 billion.” The tranche 4 list contains 3,805 full and partial tariff subheadings, covering essentially all products not already subject to China 301 tariffs except:

- pharmaceuticals;
- certain pharmaceutical inputs;
- select medical goods;
- rare earth materials;
- critical minerals; and
- products granted an exclusion from prior tranches.

Because of the potential impact of these new tariffs, an even greater degree of public participation is expected for the initial tranche 4 comment period than was seen in prior tranches. During the initial comment period for tranche 3, USTR received more than 6,000 written submissions and approximately 350 witnesses appeared at a six-day public hearing. Comments submitted during this process resulted in the reduction of the tranche 3 list of tariff subheadings and, therefore, a limiting of the range products covered by the tariff when it went into effect.

The due date for requests to appear at the tranche 4 hearing is **June 10, 2019**. Written submissions are due **June 17, 2019**, the same day hearings will begin.

The Exclusion Process

While the Administration has implemented the three tranches of China 301 tariffs, it has also launched a product exclusion process that allows domestic parties (including importers, purchasers, and trade associations) to submit comments on the exclusion of particular products from the China 301 tariffs, after the implementation of the tariffs.

On June 4, 2019, the USTR [published](#) a fifth list of exclusions from the 25% tariff on products listed in tranche 1. Harmonized Tariff Schedule (“HTS”) subheading 8537.10.8000 (i.e., touch screens) is now excluded, along with 88 specially defined products such as gas turbines, various types of pumps, certain auto parts, and even ice-making machines. The exclusions will apply as of the July 6, 2018 effective date of the tranche 1 tariff and will extend until June 4, 2020, one year from the publication of the exclusion list in the Federal Register.

The public comment period on exclusions from tranche 2 has closed, but no decisions have been announced.

As reported in our previous [client advisory](#), the Administration plans to implement a similar exclusion process for tranche 3 products. Comments on the tranche 3 process are due **June 7, 2019**.

Take Action

Please contact one of the experienced attorneys in Hughes Hubbard’s International Trade practice if you have questions about the potential impact of the China 301 tariffs, developments in the application of the tariffs, or

about how your organization can provide comments for the initial comment or exclusion processes.

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