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U.S. and China on the Brink of a Trade War

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June 21, 2018 – There have been several important developments in the U.S.-China trade relationship since our alert of **April 4, 2018**. We summarize these developments below.

On June 15, the Office of the U.S. Trade Representative (“USTR”) issued a list of Chinese goods that will be subject to a 25 percent tariff surcharge as a result of the Section 301 investigation into Chinese intellectual property policies and practices. USTR’s list is divided into two parts. The **first part**, containing 818 tariff lines, lists Chinese goods – worth approximately \$34 billion – that will be subject to the surcharge, probably starting July 6, 2018. It includes computer and electronic products; electrical equipment, appliances, and components; machinery; chemicals; and transportation equipment. The **second part** identifies 284 additional tariff lines that are still under consideration at this point. It covers approximately \$16 billion worth of Chinese goods – including semiconductors, chemicals, plastics, and resins – and will be subject to a public notice and comment process, including a public hearing scheduled for July 24.

Within hours of USTR’s announcement, China’s State Council signaled its intention to respond in kind to the U.S. tariff surcharges. The Ministry of Finance of the People’s Republic of China (“MOFCOM”) issued a list of U.S. goods to be subject to a 25 percent tariff surcharge. Like USTR, MOFCOM divided its list into two parts. The **first part** (translation required), containing 545 tariff lines, lists U.S. goods – worth approximately \$34 billion – to be subject to the surcharge, effective July 6. It includes a range of agricultural, automobile, and aquatic products. The **second part** (translation required) identifies 114 tariff lines, valued at approximately \$16 billion in U.S. imports, that will be subject to tariff surcharges at a later date. It covers, among other things, chemicals, energy products, and medical equipment.

In addition, China’s Foreign Ministry **indicated** that concessions previously offered by China in negotiations with the Trump Administration, including a commitment to purchase \$70 billion worth of U.S. products, are no longer being offered.

On June 18, President Trump responded to China's retaliatory measures by ordering USTR to develop an additional list of \$200 billion worth of Chinese imports to be subject to a 10 percent tariff surcharge, and promised to order tariff surcharges on yet another \$200 billion of Chinese goods should China continue to announce new tariff surcharges. In a **statement** issued by the White House, President Trump indicated that this second wave of tariff surcharges would enter into effect "{a}fter the legal process is complete. . . if China refuses to change its practices, and also if it insists on going forward with the new tariffs that it has recently announced."

Shortly after President Trump's announcement, MOFCOM reportedly **promised** to fight back with "qualitative" and "quantitative" measures if the United States issues new tariffs on Chinese goods.

Implications for the future of U.S.-China trade relations

China may well decide to de-escalate trade tensions. According to a **Peterson Institute for International Economics study**, the U.S. tariff surcharges will "mostly miss Chinese companies and instead hit non-Chinese multinational corporations operating in China."

If, however, China wishes to continue to escalate tensions, China might consider limiting shipments of certain goods – including consumer electronics – to the U.S. market. This would be in addition to non-tariff measures China would consider employing against U.S. companies doing business in China.

Looking Ahead

USTR published a **notice** this week indicating that it will establish an exclusion process to allow U.S. stakeholders to request that specific Chinese goods be exempted from the first set of surcharges. In addition, USTR requested public comments on its proposed second set of surcharges and will hold a public hearing on that on July 24, 2018. Parties wishing to testify at the hearing must file a request to testify by June 29, and submit written comments, if any, by July 20. Post-hearing rebuttals are due on July 31.

Stakeholders are encouraged to participate in these processes. Note that USTR removed 515 tariff lines from the initial 1,333 it had proposed for inclusion in its first set of surcharges. This was due, in part, to comments it received from the public.

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