



IMPLEMENTATION OF SECTION 301 CHINA 25% DUTIES

The U.S. Trade Representative (USTR) has today released a [statement](#) and upcoming [notice](#) that will appear in the Federal Register which will impose 25% duties effective July 6, 2018 on a list of China products pursuant to a determination under Section 301 of the Trade Act of 1974 (19 U.S.C. § 2411) that certain laws, policies, practices, and actions of the Government of China are unreasonable or discriminatory and harm American intellectual property rights and technology. The USTR has published a second list of China products that may be subject to 25% duties following public notice and comment. The lists of China products cover 1,102 HTSUS subheading tariff provisions which are generally targeted on industrial sectors that benefit from the Government of China “Made in China 2025” policy including aerospace, IT, robotics, industrial machinery, new materials, and automobiles.

The details follow:

- The first [list](#) includes 818 HTSUS tariff provisions (of the original proposed 1,333 tariff provisions) covering aircraft, marine, agricultural machinery, hydraulic and pneumatic engines, electric motors, LEDs, motor vehicles, switches, control panels, certain printed circuit assemblies, ships, lasers, and other products. Customs will begin to assess 25% additional duties effective 12:01 a.m. Eastern Daylight Time on July 6, 2018. A new HTSUS subheading 9903.88.01 provision has been created. The upcoming Federal Register notice includes the new HTSUS language in Annex A, with the additional non-binding HTS language in Annex B. Significantly, some products were dropped from the proposed Section 301 list including pharmaceuticals in HTSUS Chapter 30, syringes, catheters and needles, steel and aluminum pipe, TVs, monitors, weapons, smart cards, and golf carts.
- The second proposed [list](#) includes 284 tariff provisions such as certain plastics, plastic tubes and sheets, engines and motors, machines, control panels, locomotives, motorcycles, speedometers, etc. A public notice and comment period including hearings will precede a USTR final determination imposing 25% duties.
- The USTR will separately announce a procedure to request product exclusions from the 25% Section 301 duties. The deadlines to request to appear at a July 24 hearing and file public and rebuttal comments are June 29, July 20, and July

31, respectively. The USTR will issue a Federal Register notice in a few weeks on the product exclusion process.

- The upcoming Federal Register notice indicates affected China products admitted into a U.S. Foreign Trade Zone (FTZ) on or after the effective date of the duties must be admitted in Privileged Foreign (PF) FTZ status except for “domestic” status products. FTZ clients should consider filing Customs entry prior to July 6, 2018 on all products in zones on the first list. FTZ clients that are admitting foreign origin material that is not on the first list and are substantially transforming it in the FTZ to a finished product on the first list should avoid any additional duties by identifying the finished product as U.S. origin.
- The new HTSUS language confirms that the 25% duties apply to products of China and: (a) are in addition to any regular duties and antidumping and countervailing duties, (b) apply even if the article qualifies for special tariff treatment under Civil Aircraft Agreement, NAFTA, Pharmaceutical agreement, etc., (c) do not apply to products properly claimed in HTSUS Chapter 98.

The May 29 Presidential statement indicated that the U.S. will announce by June 30, 2018 and implement “shortly thereafter” proposed investment restrictions and “enhanced export controls” on certain Chinese person and entities.

The Section 301 actions follow three days of public hearings and the [submission](#) of over three thousand public comments in response to the proposed Section 301 tariff list, which was published at 83 [Fed. Reg. 14906](#) (April 6, 2018).

Please contact [Marshall Miller](#), [Sean Murray](#), or [Brian Murphy](#) with questions about the Section 301 actions, their potential impact and/or ways to minimize potential liability.

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