



IMPLEMENTATION OF ADDITIONAL CHINA SECTION 301 DUTIES ON LIST 3 NO PRODUCT EXCLUSION PROCESS

The [Notice](#) issued by the Office of the U.S. Trade Representative (USTR) on September 21 to implement the 10% additional tariffs on the third list (List 3) of Chinese products, effective September 24, contains additional guidance on their application:

- 1. Scope of Final List.** The final product List 3 includes 5,745 of the 6,031 HTSUS provisions that were on the originally-proposed List 3. The 286 excluded items include a long list of chemicals (including Ibuprofen, barite [used in oil and gas exploration] and fluorine salts [used in lithium-ion batteries]), plastic gloves, caviar, and antiques. Note that the final List 3 includes a Part 2 with 18 ten-digit HTSUS items from 11 8-digit HTSUS provisions which are otherwise excluded. These 10-digit classifications include certain children's furniture, chemical compounds, and transmission/reception apparatus.
- 2. Duty Rate.** The 10% duty rate increases to 25%, effective January 1, 2019.
- 3. No Product Exclusion Process.** Uniquely, the Notice does not include a product exclusion process for List 3. This is different than List 1 and List 2, which have defined exclusion processes and deadlines. (As a reminder, the deadline for filing Exclusion Requests for List 1 products is October 9.) The import community is already advocating to create a product exclusion process for List 3.
- 4. FTZs.** The 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) status unless they are "domestic" status products. FTZ clients who are admitting foreign origin material that is not on List 3 and are substantially transforming it in the FTZ into a finished product on List 3 should contact the Firm to discuss options.
- 5. Additional Duties & Exceptions.** The new HTSUS language confirms that the 10% 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 product qualifies for special tariff treatment under Civil Aircraft Agreement, NAFTA, Pharmaceutical Appendix, etc., and (c) do not apply to products properly claimed in HTSUS Chapter 98, except that the additional duties apply to added values under HTSUS subheadings 9802.00.40/50/60/80.

Clients should be considering options such as reviewing tariff classifications, tariff (re-) engineering products, using foreign-trade zones (FTZs), validating customs values, and changing supply chains and sourcing to minimize duty exposure.

Contact [Marshall Miller](#), [Brian Murphy](#), or [Sean Murray](#) with questions.

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