
Tariffs For Third Tranche of Goods From China to Increase to 25% on May 10, 2019

By Mark R. Ludwikowski, R. Kevin Williams / May 09, 2019

On May 6, 2019, President Trump signaled that China has chosen to retreat from specific commitments agreed to in earlier rounds of negotiations, and on May 8, 2019, the Office of the United States Trade Representative (“USTR”) issued an official Notice of Modification of Section 301 Action confirming the President’s message. The President has also threatened to impose a 25% tariff on the remaining \$325 billion of additional goods imported from China which are currently exempt from Section 301 tariffs.

On May 10, 2019, the rate of additional tariff is set to increase from 10% to 25% with respect to products covered by the September 2018 action (third tranche of tariffs also known as “List 3”). These are products of China with an annual trade value of approximately \$200 billion.

Imports of goods from China totaling \$200 billion subject to the List 3 of Section 301 tariffs have been subject to additional 10% tariffs since September 24, 2018. The tariff on these goods was scheduled to increase to 25% on March 2, 2019, but President Trump delayed the increase because of “substantial progress” in talks with China to resolve the dispute. This progress has now appeared to have stalled. In light of the lack of progress in the additional rounds of negotiations since March 2019, and at the direction of President Trump, the USTR has determined that it is appropriate for the rate of additional duties under the September 2018 action to increase to 25%.

The list of subheadings of the Harmonized Tariff Schedule of the United States (“HTSUS”) covered by Round 3 are available [here](#).

The USTR notice indicates that it will establish a process by which interested persons may request that particular products classified with an HTSUS subheading covered by the September 2018 action be excluded from the additional duties. The USTR is expected to publish a separate notice describing the product exclusion process by the end of May, including the procedures for submitting exclusion requests, and an opportunity for interested persons to submit oppositions to a request. This exclusion process is likely to resemble the exclusion procedures established earlier for Lists 1 and 2 of Chinese goods targeted with the Section 301 tariffs.

The USTR’s notice indicates that the tariff increase to 25% would apply to goods that are both: 1) entered for consumption in the U.S. market, or withdrawn from warehouse for consumption, on or after 12:01 eastern daylight time on May 10, 2019; AND 2) exported to the United States on or after May 10, 2019. This should be a temporary, but welcome, accommodation for importers with shipments on the water. It is yet unclear whether Customs and Border Protection will issue further guidance on the proof that it will require to exclude the imported product from the 25% tariff increase.

High-level negotiations are scheduled to resume on May 9, 2019, in Washington, D.C. The Chinese delegation includes Mr. Liu He, China’s Vice Premier and top trade negotiator, Commerce Vice Minister Wang Shouwen, and Finance Vice Minister Liao Min.

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