

ALERT

Administration Releases Details on Planned Increases to Section 301 Duties on Imports of Steel, Aluminum, Electric Vehicles, Semiconductors, Solar Cells, and Other Products from China

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On May 22, 2024, the Office of the U.S. Trade Representative (USTR) released the text of a *Federal Register* notice detailing the tariff codes to be impacted by the Biden Administration's proposed increase in tariffs on \$18 billion in imports from China under Section 301 of the Trade Act of 1974. The notice also confirms that where the Administration proposes to increase tariffs this year, the increases will be effective on August 1, 2024. For those increases scheduled for 2025 and 2026, the increases will be made effective as of January 1 of those years. The notice also identifies the tariff provisions that will be subject to a proposed duty exclusion process for machinery used in domestic production operations and proposes solar manufacturing machinery exclusions that would be effective as of the date of publication of the notice. Comments on the proposed tariff increases and the scope of the machinery exclusions are due on June 28, 2024.

The increased tariff rates target critical U.S. industries and industries where China has announced an intent to expand production capacity and exports. The tariffs are only applicable to imports with China as the country of origin. Notable tariff increases include:

- **Steel and Aluminum:** Tariff rates on certain products will increase from 0-7.5% to 25% on August 1, 2024. The tariff codes at issue are all within Chapters 72, 73, and 76 of the Harmonized Tariff Schedule of the United States (HTSUS), and

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cover products such as steel bars, beams, wire, sheet piling, and pipe, as well as aluminum bars, wire, foil, and pipe.

- Solar Cells (Whether or Not Assembled into Modules): The tariff rate for goods classified in HTSUS subheadings 8541.42.00 and 8541.43.00 will increase from 25% to 50% on August 1, 2024.
- Semiconductors: Tariff rates for goods such as diodes, transistors, other photosensitive semiconductor devices, electronic integrated circuits, and parts for these products will increase from 25% to 50% on January 1, 2025.
- Electric Vehicles (EV): The tariff rate will increase from 25% to 100% on August 1, 2024 for certain fully electric passenger vehicles, as well as certain hybrid passenger vehicles that can be charged through plugging into an external power source.
- Batteries and Battery Components and Parts: The tariff rate for lithium-ion batteries used as the primary power source for hybrid and fully electric vehicles for the transport of fewer than ten persons will increase from 7.5% to 25% on August 1, 2024. The tariff rate for lithium-ion batteries for other uses will also increase by this amount, but on January 1, 2026. The tariff rate for parts of rechargeable lead-acid batteries will increase from 7.5% to 25% on August 1, 2024.
- Critical Minerals for Batteries: The tariff rates on natural graphite and permanent magnets will increase from zero to 25% on January 1, 2026 and the tariff rates for critical minerals including manganese, cobalt, aluminum, tungsten-related products, certain ferroalloys, zinc, tin, and chromium will increase from zero to 25% on August 1, 2024.
- Ship-to-shore gantry cranes: The tariff rate for products classified in HTSUS subheading 8426.19.00 will increase from zero to 25% on August 1, 2024.
- Medical Products: Tariff rates will increase on:
 - facemasks of HTSUS provisions 6307.90.9845, 6307.90.9850, and 6307.90.9875 (7.5% to 25% on August 1, 2024);
 - syringes and needles of HTSUS subheadings 9018.31.00 and 9018.32.00 (0% to 50% on August 1, 2024); and
 - medical and surgical gloves of vulcanized rubber other than hard rubber (7.5% to 25% on January 1, 2026).

In addition, USTR's notice describes with specificity the goods that will be subject to proposed exclusions for solar manufacturing equipment. Similarly, the notice identifies the tariff provisions that will be subject to a proposed duty exclusion process for machinery used in domestic production operations. The tariff codes cover a wide range of machinery for construction, agricultural, textile, and other purposes, including machine tools, saws, grinding machines, CNC machines, industrial robots, and more.

This notice does not address the numerous Section 301 exclusions currently set to expire on May 31, 2024. However, a separate notice addressing these exclusions is expected imminently.

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Background: Under Section 301, USTR may take action to encourage foreign countries to abandon or mitigate unfair trade practices affecting U.S. commerce. The Trump Administration first instructed USTR to investigate China's trade practices in 2017, and USTR ultimately concluded that a variety of China's unfair trade practices burdened U.S. commerce. At the President's direction, USTR imposed Section 301 tariffs ranging from 7.5% to 25% through four successive rounds between July 6, 2018, and September 1, 2019.

USTR was required to assess the effectiveness and necessity of the Section 301 measures as part of its *Four-Year Review of Actions Taken in the Section 301 Investigation: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property and Innovation*. USTR's investigation considered nearly 1,500 comments from interested parties, covering 6,000 product categories.

In its investigation, USTR concluded that, while the Section 301 measures have generated several "positive" changes to China's policies, there has not been a "systematic and sustained" change in China's technology transfer-related acts, policies, and practices. USTR also found that the Section 301 measures have driven diversification and resilience in the U.S. supply chain. USTR issued its report on May 14, 2024, and simultaneously indicated its intention to issue a *Federal Register* notice specifically identifying tariff codes and products subject to the tariff increases, exclusion processes, and exclusions recommended in that report.

Wiley has robust International Trade, Supply Chain, and Customs practices with extensive experience helping clients navigate Section 301 and broader trade issues. For more information about the implications of the Administration's announcement and USTR's Section 301 report, please contact one of the listed attorneys.