

Administration to Impose Additional Tariffs on “Essentially All” Chinese Goods

May 13, 2019

After the markets closed on Friday, May 10, 2019, the Office of the U.S. Trade Representative (USTR) posted a press release to its website confirming that President Trump has ordered the agency to begin the process to place additional tariffs, under Section 301 of the Trade Act of 1974, on Chinese products not already subject to such duties.

In its press release, USTR indicated that “essentially all” imports from China not yet subject to Section 301 duties would be affected. USTR’s use of the phrase “essentially all” suggests that some products may remain outside of this new process, potentially goods that were already proposed for inclusion in prior lists of dutiable products but that were ultimately not subjected to 301 duties. However, the details of the proposal are not yet clear.

Last year, the Administration imposed Section 301 tariffs on three successive rounds of Chinese imports. These tariffs were in addition to any import duties or fees already affecting such goods. Products covered by the “Tranche 1” tariffs (which cover approximately \$34 billion in annual imports) and the “Tranche 2” tariffs (which cover approximately \$16 billion in annual imports) have been subject to 25% additional duties since July 6 and August 23, 2018, respectively. Products covered by the “Tranche 3” tariffs, which were made effective on September 24, 2018, were subject to 10% additional import duties through May 10, 2019; those additional duties rose to 25% for goods entering the United States on or after May 10, 2019 or which, having been exported to the United States before that date, do not arrive in the United States by June 1, 2019.

Authors

Maureen E. Thorson
Partner
202.719.7272
mthorson@wiley.law

Alan H. Price
Partner
202.719.3375
aprice@wiley.law

Nova J. Daly
Senior Public Policy Advisor
202.719.3282
ndaly@wiley.law

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USTR’s press release indicated that there will be a notice and comment period for the new “Tranche 4” proposal. It accordingly appears that the process of finalizing the “Tranche 4” list will be similar to those that were undertaken with prior rounds of proposed/finalized tariffs: (1) a proposal published in the *Federal Register*, (2) an opportunity for interested parties to comment, (3) potentially a hearing, and (4) finalization of the list of affected products and the duty rate.

Much remains unknown at this time, including the tariff rate that the Administration intends to propose for the goods subject to “Tranche 4.” It is expected that USTR will publish additional information on its website today, potentially including the draft *Federal Register* notice with the initial proposed list of affected products.

In the meantime, the Administration has also announced that it will implement an exclusion process for goods subject to the recent increase in Section 301 duties affecting “Tranche 3” products. The Administration created processes by which individual companies could petition for the exclusion of products from the additional 25% “Tranche 1” and “Tranche 2” tariffs last year, but resisted implementing an exclusion process for “Tranche 3” products while duties on those goods remained at 10%, despite Congressional pressure to do so. USTR has not yet released the specifics of the “Tranche 3” exclusion process but there is speculation within Washington that it may differ from the exclusion process adopted for the earlier tranches, which has proven difficult to administer.