

\$200 Billion in Chinese Imports Subject to Additional Duties

SEPTEMBER 20, 2018

New Duties Imposed on Third List of 5,745 Tariff Classifications: Effective September 24

On September 17, 2018, the United States Trade Representative (“USTR”) released a list of 5,745 categories of products imported from China that will be subject to additional duties. This imposition of an additional duty is part of the U.S.’ response to the [Section 301 investigation](#) that found that China was engaging in unfair trade practices related to the forced transfer of American technology and intellectual property.¹ U.S. Customs and Border Protection (“CBP”) will begin to collect the additional duties of 10% on September 24, 2018. On January 1, 2019, the additional duties will increase to 25%.

The 5,745 categories are distinct tariff classifications under the Harmonized Tariff Schedule of the United States (“HTSUS”). The [announcement](#) indicated that these categories of products cover approximately \$200 billion worth of imports from China. These 5,745 were selected from an initial list of 6,031 tariff classifications that was whittled down after the USTR received written comments from the public and advice from the appropriate trade advisory committees. A public hearing was also held on the subject, during which witnesses provided testimony and responded to questions. As a result of this process the USTR decided to fully or partially remove almost 300 tariff lines from the original proposed list. Included among the products removed from the proposed list are certain consumer electronics products such as smart watches and Bluetooth devices; certain chemical inputs for manufactured goods, textiles and agriculture; certain health and safety products such as bicycle helmets; and child safety furniture such as car seats and playpens.

One part of the September 17 list that appears to be causing some confusion comes in Part 2, which lists tariff classifications that are only partially covered by the action. In particular, the USTR has noted that products classified under the HTSUS subheading 8517.62.00 will be subject to additional duties *except* for products classified under the 10-digit carve-out 8517.62.0090. This 10-digit code does not currently exist in the HTSUS. We have been advised, however, by the USTR’s office that an updated HTSUS containing the 8517.62.0090 classification will be released shortly and that CBP will be providing additional guidance on this issue to allow importers to properly classify their products.

A process for requesting exclusion from these additional duties has not yet been released, but it is anticipated that one similar to that for products on the prior lists will be announced.

Exclusion Request Process and Timelines Released for (Previous) Second List of Tariff Classifications

Additionally, on September 18, 2018, the USTR [released information](#) regarding the process by which U.S. stakeholders may request that particular products classified within a tariff subheading covered by the [August 16, 2018 additional action](#) be excluded from the additional duties. All requests to exclude a particular product from the additional 25% tariffs established by the August 16 additional action must be received by December 18, 2018. A product exclusion process for items included on the September 17, 2018 list has not yet been released. (For the 25% tariffs imposed on July 6, the product exclusion deadline is October 9, as discussed in our [prior briefing](#).)

Guidance

Companies impacted by these tariff actions can consider a number of ways to blunt the impact on their business. One option noted above is to apply for exclusion of your goods from the additional tariffs; however, exclusions are granted at the discretion of the USTR. For many companies, this may also be a time to revisit their current import practices and supply chains to determine if duty-saving measures, such as special classifications or duty drawback, are available. Furthermore, many companies are and will be taking a close look at the structure of their supply chains to determine if there are opportunities to mitigate import costs.

If you have any questions about how your company can take action in response to these developments in U.S.-China trade relations, please contact one of the attorneys listed below or your usual Winston & Strawn contact.

¹ Our prior briefings on this Administration's actions under Section 301 can be found [here](#), [here](#), and [here](#).
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