



List 4 is Here—Will "Essentially All" Chinese-Origin Products Be Subject to Additional Duties?

IN SHORT

The Situation: Almost all Chinese-origin products imported into the United States may soon be subject to additional 25 percent duties pursuant to Section 301 of the Trade Act of 1974.

The Developments: The U.S. Trade Representative ("USTR") published a proposed list of Chinese-origin products with an annual trade value of approximately \$300 billion that may soon be subject to the additional duties.

The Impact: Interested parties should consider submitting written comments and participating in the upcoming public hearing.

As we explained in a [prior Commentary](#), USTR has imposed additional duties pursuant to Section 301 on three lists of Chinese-origin goods with a collective annual trade value of approximately \$250 billion ("Lists 1–3"). On May 13, 2019, USTR published a proposed list of additional Chinese-origin products upon which it intends to impose additional 25 percent duties pursuant to Section 301 ("List 4"). List 4 covers \$300 billion of Chinese-origin imports into the United States annually.

USTR's publication of List 4 follows a series of tweets by President Trump characterizing the progress of trade negotiations between the United States and China as "too slow" and comes just days after the U.S. government increased the additional duties on List 3 products from 10 to 25 percent. List 4 includes 3,805 subheadings of the Harmonized Tariff Schedule of the United States ("HTSUS").



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While it excludes "pharmaceuticals, certain pharmaceutical inputs, select medical goods, rare earth materials, and critical minerals" and does not affect product exclusions previously granted by USTR, the announcement means that "essentially all" imports of Chinese-origin products into the United States may soon be subject to additional 25 percent duties pursuant to Section 301. In fact, List 4 includes certain HTSUS subheadings that were included in the initial versions of Lists 1–3 but that were excluded from the final versions following the notice-and-comment processes.

As with Lists 1–3, USTR established a public notice-and-comment process for List 4. Commenters are encouraged to address "whether imposing increased duties on a particular product would be practicable or effective to obtain the elimination of China's acts, policies, and practices, and whether imposing additional duties on a particular product would cause disproportionate economic harm to U.S. interests, including small- or medium-size businesses and consumers."

In addition, USTR requests comments regarding: (i) whether any HTSUS subheadings should be retained, removed, or added; (ii) the level of increase, if any, in the duty rate; and (iii) the

appropriate aggregate level of trade to be covered by the additional duties. Interested parties that wish to participate in the notice-and-comment process must file requests to appear and a summary of expected testimony at the public hearing by June 10, 2019, and written comments by June 17, 2019. The public hearing will be held on June 17, 2019, and hearing participants must submit post-hearing rebuttal comments with seven days of the last day of the public hearing.

THREE KEY TAKEAWAYS

1. If USTR implements additional duties on the products on List 4, essentially all imports of Chinese-origin products into the United States will be subject to additional 25 percent duties pursuant to Section 301.
2. Companies with products on List 4 should consider requesting that their products be removed by filing written comments and participating in the public hearing.
3. Companies that are unsuccessful in having their products removed from List 4 should consider pursuing other potential options to reduce the impact of Section 301 on their businesses. This includes monitoring whether USTR creates a product exclusion process for List 4 and, if so, filing product exclusion requests.



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