

# CLIENT ALERTS

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## Global Markets Plunge on President's Announcement of New 4th Tranche of Section 301 Tariffs; China Announces Countermeasures

8.2.2019

President Trump sent global markets diving yesterday afternoon with his surprise Twitter announcement that he will begin imposing a 10% tariff on another \$300 billion in Chinese imports (List 4) effective September 1, 2019. President Trump's tweets noted that the progress of Robert Lighthizer's and Steve Mnuchin's talks earlier this week with China were "constructive", but criticized China for not making progress on the key issue of opening its market to more agricultural products and halting to Chinese exports of Fentanyl.

No official Presidential Proclamation or Federal Register notice is yet available to substantiate this Tweet; however, a previous announcement of the proposed List 4 of new Section 301 tariffs was published in the Federal Register on May 17<sup>th</sup> and an opportunity for comments and public hearings was provided. The USTR held a hearing on June 17<sup>th</sup> and accepted written comments until that date on:

- The specific tariff subheadings to be subject to increased duties, including whether the subheadings listed in the Annex should be retained or removed, or whether subheadings not currently on the list should be added.
- The level of the increase, if any, in the rate of duty.
- The appropriate aggregate level of trade to be covered by additional duties.

The USTR also requested that commenters address specifically 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-sized businesses and consumers.

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Since the USTR has already implemented the public notice and comment provisions of Section 301, this new 4<sup>th</sup> tranche of tariffs would take effect on September 1<sup>st</sup>, to allow time for shipments already on the water to arrive. It is important for companies with shipments on the way from China to have them formally entered into the US by way of a “consumption entry” using Customs Form 7501 so they are considered legally entered into the U.S. before September 1<sup>st</sup>. Goods subject to other types of entries such as “Immediate Entries” (form 3461) will not be counted as meeting this deadline.

The new List 4, includes most of the remaining products from China that had not already been included in the previous three Lists, including a large number of agricultural and consumer products (including smartphones, laptops, clothing, and toys). It also includes minerals, chemical products, and some industrial products. While most automobile parts have already been covered by previous tranches of Section 301 duties, the List 4 also covers some motorcycles and parts under Harmonized Tariff System subchapter numbers 8711 and 8714. President Trump hinted in statements to news media that the 10% tariff could even be raised to 25%.

No announcement was made about any exclusion process for the new List 4. Exclusion processes were put in place immediately for Lists 1 and 2, which covered a smaller number of products and were implemented at 25%. To date, only a small number of those applications have been processed; however, those granted are retroactive to the initial effective date of the tariffs, and in place for an additional year. An exclusion process was not implemented for List 3 until President Trump raised it from the initial 10% rate announced last summer to 25% in May of this year. List 3 Product Exclusion applications may be filed until September 30<sup>th</sup>. See Butzel Long Client Alert from June 21, 2019.

These new tariffs appear designed to put more pressure on China before trade talks resume in September and are consistent with other Trump administration trade strategies. The announcement resulted in a sharp drop in stock market prices at the close of August 1<sup>st</sup> after they had risen earlier as a result of the Federal Reserve Bank interest rate cut announced Wednesday in partial response to global trade uncertainties attributable to the US-China standoff.

Chinese officials were apparently caught off-guard by President Trump’s announcement. A Foreign Ministry spokesperson stated that China would launch countermeasures to combat these tariffs, but did not elaborate on those countermeasures. The spokeswoman said, “We don’t want to fight, but we are not afraid to fight.” Analysts do not see China’s response as likely to be additional retaliatory tariffs, given the trade imbalance.

Butzel Long attorneys have assisted their clients with prior USTR submissions and are available for Counseling and advice and will provide further details on List 4 exclusions when and if details are made available.

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