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No End in Sight: USTR Announces Implementation of Section 301 Tariffs on Additional \$16B of Chinese Products; China Fires Back Immediately

8.9.2018

The United States Trade Representative (USTR) announced on August 8th that the U.S. would begin imposing 25% tariffs on a second tranche of Chinese products valued at approximately \$16B on August 23rd. Tariffs on a first list of products valued at approximately \$34B as a result of the USTR's Section 301 investigation took effect July 6th.

The new tranche contains 279 of the original 284 tariff lines that were on a proposed list announced on June 15th. The USTR and the interagency Section 301 Committee made the deletions to the proposed list in response to written comments and testimony during a two-day public hearing last month. (Butzel Long attorneys submitted comments on behalf of several clients.)

The Chinese commerce ministry immediately responded that it would impose 25% tariffs on \$16B worth of U.S. imports, including fuel, steel products, automobiles and medical equipment, also effective August 23rd. That list of 333 products can be found [here](#).

At the direction of President Trump, the USTR is also reviewing a third list (or tranche) of products imported from China to the U.S. worth an additional \$200B. The USTR is considering whether to impose tariffs of 10% or possibly 25% on that list of products. The comment period on that list ends September 6th. For further information on participating in that process, see Client Alert from August 2.

The USTR indicated that it would announce the dates and process in a future Federal Register notice for an exclusion process for the second tranche (i.e., the \$16B list of products) similar to the one currently in place for the first round of tariffs (i.e., the \$34B list of products) that went into effect on July 6th (See Client Alert: U.S. Trade Representative Announces New Process for Product Exclusions From Section 301 Tariffs on Chinese

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Imports).

As a reminder, the Section 301 Exclusion Process differs from the Section 232 Exclusion Process in place for steel and aluminum tariffs in several significant ways:

- *Section 301 Process is through the USTR, not the Department of Commerce;*
- *Section 301 Process has a closing deadline (for first list, October 9th), whereas 232 Process is rolling;*
- *Section 301 Process provides method of submitting "Business Confidential" Information that is then not published online;*
- *Section 301 Process provides window for applicant to respond to any comments filed.*

This swiftness of the issuance of this recent list, and the small number of items removed from the final list compared to the proposed list, indicates a continued aggressive approach to imposing section 301 tariffs against China as a result of their intellectual property and market access practices affecting U.S. companies. China's imposition of retaliatory tariffs in response to the US tariffs is undoubtedly one factor in the swiftness of this recent action. The aim of these tariffs has been to bring China to the negotiating table but it has not succeeded.

For a complete history of the section 301 tariffs, see earlier Butzel Long client alerts listed below: July 11, July 9, June 15, and April 4.

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