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Section 301 Tariffs Involving China - Update

6.15.2018

The Office of the United States Trade Representative (USTR) today released a list of products imported from China that will be subject to additional tariffs as part of the U.S. response to alleged unfair trade practices by China related to the alleged forced transfer of American technology and intellectual property.

On March 22, 2018, President Trump signed a memorandum announcing that the United States would take multiple steps to protect American technology and intellectual property from certain discriminatory and burdensome trade practices by China. These actions were announced following a report by the Office of the U.S. Trade Representative (USTR) regarding China's acts, policies, and practices with respect to technology transfer, intellectual property, and innovation. Butzel Long issued a client alert concerning this on April 4 2018.

On May 29, 2018, President Trump stated that USTR shall announce by June 15 the imposition of an additional duty of 25 percent on approximately \$50 billion worth of Chinese imports containing industrially significant technologies, including those related to China's "Made in China 2025" industrial policy. Today's action comes after an exhaustive Section 301 investigation in which USTR found that China's acts, policies and practices related to technology transfer, intellectual property, and innovation are unreasonable and discriminatory, and burden U.S. commerce.

"We must take strong defensive actions to protect America's leadership in technology and innovation against the unprecedented threat posed by China's theft of our intellectual property, the forced transfer of American technology, and its cyber-attacks on our computer networks," said Ambassador Robert Lighthizer. "China's government is aggressively working to undermine America's high-tech industries and our economic leadership through unfair trade practices and industrial policies

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like 'Made in China 2025.' Technology and innovation are America's greatest economic assets and President Trump rightfully recognizes that if we want our country to have a prosperous future, we must take a stand now to uphold fair trade and protect American competitiveness."

The list of products issued today covers 1,102 separate U.S. tariff lines valued at approximately \$50 billion in 2018 trade values. This list was compiled based on extensive interagency analysis and a thorough examination of comments and testimony from interested parties. It generally focuses on products from industrial sectors that contribute to or benefit from the "Made in China 2025" industrial policy, which include industries such as aerospace, information and communications technology, robotics, industrial machinery, new materials, and automobiles. The list does not include goods commonly purchased by American consumers such as cellular telephones or televisions.

This list of products consists of two groups of tariff items. The first set contains 818 Harmonized Tariff System numbers of the original 1,333 lines that were included on the proposed list published on April 6. These lines cover approximately \$34 billion worth of imports from China, a reduction from the proposed \$50 billion and an indication that USTR took into consideration some of the objections raised in the May 11 submissions and subsequent hearings. USTR has determined to impose an additional duty of 25 percent on these 818 products and will begin to collect the additional duties on July 6, 2018.

The second set of proposed duties are new and different from those in the original proposed list and contains 284 proposed tariff lines identified by the interagency Section 301 Committee as benefiting from Chinese industrial policies, including the "Made in China 2025" industrial policy. These 284 harmonized tariff numbers, which cover approximately \$16 billion worth of imports from China, since they are new and not subject to the previous comment will be subject additional review in a public notice and comment process, including an additional public hearing. After completion of this process, USTR will issue a final determination on the products from this list that would be subject to the additional duties. No date has been announced for this

USTR provide an opportunity for the public to request the exclusion of particular products from the additional duties subject to this action. USTR will issue a notice in the Federal Register with details regarding this process within the next few weeks.

Interested persons filed approximately 3,200 written submissions. In addition, USTR and the Section 301 Committee convened a three-day public hearing from May 15-17, 2018, during which 121 witnesses provided testimony and responded to questions. A number of Butzel Long clients filed comments and also made personal visits to Congressional offices to express their concerns and seek support from members of Congress. The products of the Butzel Long client that submitted written comments and also made congressional visits were removed from the list, at a potential saving to them of \$2,500,000, emphasizing the importance of lobbying efforts along with formal submissions.

Here are links to the two lists:

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USTR 301_List 1

USTR 301_List 2

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