



THINK FORWARD

USTR Identifies Action Under Section 301 and Proposed List of Products Subject to Increased Tariffs

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As you have read, President Trump decided to take action against China in response to findings by the U.S. Trade Representative (USTR) under Section 301 of the Trade Act of 1974 (19 U.S.C. § 2411). Yesterday, USTR released its “proposed” action, which includes additional duties of 25% on the list of over 1,000 products imported from China. **Comments** on this proposed action are due no later than **May 11, 2018**. The USTR also will hold a hearing to provide an opportunity for interested parties to be heard. The **hearing** will be on **May 15, 2018** and **requests to appear** are due no later than April 23, 2018. Thereafter, USTR will issue its final determination on the action it will take and the products affected.

USTR Proposes 25% Duty on Imports from China

USTR is proposing an additional duty of 25 percent on over 1,000 products of Chinese origin. The products are identified in an Annex accompanying USTR’s [Notice](#). The import value of the products on the list is approximately \$50 billion in terms of estimated annual trade value for calendar year 2018 (e.g., not value of total duties).

In addition to the 25% duty, USTR has taken recourse under the WTO’s dispute settlement mechanism.

Over 1,000 Products Identified

Over 1,000 discrete products with HTS sub-classification numbers were identified. A quick review indicates that at least the following products are covered by the additional duties:

- Numerous chemicals, chemical agents, pharmaceutical products, drugs, etc.
- Numerous consumer electronic products and components, such as batteries; parts of printed circuit assemblies; voltage regulators; electrical conductors; LEDs for backlighting LCDs; touch screens; optical measuring devices; various televisions, monitors, displays and projectors; etc.
- Medical products, tools, equipment, instruments and devices; semiconductor devices; Parts of diodes, transistors, semiconductor devices, photosensitive semiconductor devices; LED's and mounted piezoelectric crystals; navigational devices and parts and components thereof; various instruments and appliances; etc.
- A variety of bearings, valves, torque converters, flywheels, pulleys, clutches, gears, flanges, seals, rings, motors and generators and parts and components thereof, etc.

- Motor vehicles and various parts and components thereof; railway/tramway vehicles and various parts and components thereof; aeronautical equipment and aircraft and spacecraft and parts and components thereof; various vessels, boats and watercraft; etc.
- Laboratory and industrial equipment and machines, etc.
- Military equipment and weapons/guns, etc.
- Steel and aluminum products already covered by the 25%/10% additional tariffs on steel and aluminum, respectively, under the President's action under Section 232 based on national security concerns (note that China has already identified retaliatory action based on the Section 232 action in the United States). Such products will be assessed the 25% duty under Section 301 in addition to the 25%/10% tariff under Section 232.

A quick review also suggests that at least the following products are not covered by the additional duties:

- Cell phones and mobile devices, such as pads and electronic note books or e-readers and cellular or wireless networks (usually under HTSUS 8517)
- Other products normally associated with telecommunications use also are not covered, such as microphones and speakers (usually under HTSUS 8518) and telephone answering machines (usually under HTSUS 8519.50) are not included on the list

Opportunity to Comment and Appear at Hearing

USTR will accept comments with respect to the proposed action to be taken. Any **comments** are due **May 11, 2018**, and **post-hearing rebuttal comments** are due by **May 22, 2018**.

Comments or rebuttal comments may be filed to support or oppose including certain products on the target list and could address any one or more of the following topics:

- The specific products to be subject to increased duties, including whether products listed in the Annex should be retained or removed
- Whether to reduce the level of the increase, if any, in the rate of duty
- The appropriate aggregate level of trade to be covered by additional duties

Based on the methodology applied by USTR, parties at the very least could urge USTR to remove a product from the list because the product, in fact, does not benefit from the accused Chinese industrial policies and/or otherwise will not lead to the policy being revoked or discontinued in China. Parties also could argue that a product should be removed from the list in order to avoid disruptions to the U.S. economy or an adverse impact on consumers in the United States - or involves tariff lines that are subject to legal or administrative constraints.

The **Hearing** will be held in Washington, DC commencing at **10:00am on May 15, 2018**. **Requests to appear** at the hearing are due no later than **April 23, 2018**. The request to appear must include a summary of testimony and may be accompanied by a pre-hearing submission. Remarks at the hearing may be no longer than **five (5) minutes**.