

U.S. Releases Final List of Tariffs on \$34 Billion in Chinese Imports

818 Product Categories Included; Additional Proposed Product List Issued; Two Lists Cover \$50 Billion in Imports

June 15, 2018

International Trade; Public Policy and Government Affairs

As [anticipated](#), the Trump Administration today released its final list of Chinese imports subject to an additional 25 percent *ad valorem* tariff. The imposition of the tariffs follows the Administration's determination in March that China's technology transfer and intellectual property ("IP") policies are harming U.S. companies, and the submission of public comments on the proposed product list in April and May. The final list covers 818 product categories valued at approximately \$34 billion in annual imports from China and will take effect on July 6, 2018, though product-specific exclusions can be requested through a process to be announced later. Additionally, the Administration proposed a new list of potential tariffs on 284 product categories worth \$16 billion that will be subject to a public comment period. China has responded with its own two tariff lists targeting trade flows of comparable magnitude.

The [final list of 818 product categories](#) represents sectors including aerospace, information communication technology, machinery, and medical instruments. In early April, the Administration had initially proposed a [list of approximately 1,300 product categories](#) that would be subject to tariffs, following a [finding](#) in an [investigation](#) under Section 301 of the Trade Act of 1974 ("Section 301") that China's forced transfer of U.S. technologies and IP theft have caused at least \$50 billion in harm to the U.S. economy per year.

With a few exceptions, the industry profile of the final list generally parallels that of the initial list. 51 percent of the final listed items fall under Chapter 84 of the Harmonized Tariff Schedule of the U.S. ("HTSUS"), and include a wide variety of machinery, such as boilers, generators, and engines. 23 percent are classified under Chapter 85, including electrical motors and machinery, batteries, and circuit assemblies. 16 percent fall under Chapter 90, including numerous types of optical, medical, and measuring equipment. Notably, however, each of these Chapters also saw approximately 20 percent reductions in the number of tariff lines covered relative to the initial list. Furthermore, the final list no longer includes any iron and steel products falling under Chapters 72 and 73, which comprised approximately 11 percent of the original list, though 6 new tariff lines from Chapter 73 appear on the second list discussed below. Other sectors that obtained exclusions from the final list are pharmaceuticals (Chapter 30), aluminum (Chapter 76), and arms and munition (Chapter 93). A chart comparing the initial and final lists is available [here](#).

The tariffs on the 818 product categories will take effect on July 6, consistent with the Administration's earlier statement that the tariffs would go into effect "[shortly](#)" after today's announcement. However, the Administration [has announced](#) that it will provide an opportunity to request exclusions of "particular products" subject to the additional duties. This product-level exclusion process could be similar to the [process followed for the Section 232 tariffs on steel and aluminum](#). In short, U.S. companies may still be able to obtain relief, even if their imports from China fall within the final list released today.

Together with the final list of 818 product categories, the Administration released a [second list](#) of 284 proposed tariff lines subject to a 25 percent tariff. Just over half of the second list's tariff lines are plastic products falling under Chapter 39 of the HTSUS. Other product categories include integrated circuits, generators, and motors (Chapter 85); engines and industrial machinery (Chapter 84); and tractors and motorcycles (Chapter 87). This list will be subject to "further review" through a [public comment and hearing process](#), similar to what was provided for the initial proposed list. Requests to appear at the hearing and a summary of expected hearing testimony, along with optional pre-hearing written comments, must be submitted by June 29, 2018. Written submissions are due by July 23. A public hearing will be held on July 24, during which participants will be able to testify and respond to questions from the Section 301 Committee. Post-hearing rebuttal comments are due by July 31. Comments should address only the new list; as with the comments on the first list, comments should discuss whether the proposed duties "would be practicable or effective" in countering China's offending IP practices, and whether the duties "would cause disproportionate economic harm to U.S. interests, including small- or medium-sized businesses and consumers."

Today's final product list does not pertain to an additional round of tariffs on \$100 billion in Chinese imports that has been under development. This additional \$100 billion list is said to be nearing finalization. If implemented, these additional tariffs may be subject to a notice and comment period prior to implementation, or alternatively could be implemented first with a subsequent comment period. In addition to the tariff measures, the Administration is [pursuing two other actions](#) in response to the Section 301 investigation: [restrictions on Chinese investment](#) in the U.S., which are expected to be announced later this month, and a recently initiated challenge to China's discriminatory technology licensing rules in the World Trade Organization ("WTO").

In response to the U.S. announcement, China is poised to implement its own tariffs. Today, China's Ministry of Commerce ("MOFCOM") [expressed "deep regret"](#) at the U.S. move and stated that although China "does not wish to fight a trade war," it would have no choice but to launch a "strong counterattack" to protect its national interests and the multilateral trading system. MOFCOM indicated that it would immediately introduce tariffs "equal in scale and equal in strength." Subsequently, MOFCOM [released](#) a list of 545 tariff lines representing \$34 billion in U.S. imports, for which a 25 percent tariff will take effect on July 6. This list covers a range of agricultural, automotive, and aquaculture products. An additional list of 114 tariff lines represents \$16 billion in U.S. imports and includes chemicals and medical devices; an implementation date has not been set and will likely depend on the timing of any U.S. action on its new \$16 billion list. In anticipation of this response, the Trump Administration [had vowed](#) to "pursue additional tariffs if China engages in retaliatory measures."

As tariffs take effect, U.S. companies with business interests in China should assess potential impacts on their customers, suppliers, and competitors, and also watch for further developments from both the U.S. and Chinese governments.

* * *

Covington's diverse trade policy teams in Washington and Beijing, which include former senior government officials, are uniquely positioned to provide thoughtful strategic advice to clients seeking to monitor, prepare for, and react to upcoming Section 301 developments. We count among our ranks:

- [Chris Adams](#), who recently joined Covington from the U.S. Department of Treasury, where he served as Senior Coordinator for China Affairs, managing the highest level U.S.-China economic policy dialogues for the Obama and Trump administrations;
- [Alan Larson](#), former Under Secretary of State for Economic, Business and Agricultural Affairs;
- [Timothy Stratford](#), former Assistant USTR for China Affairs;
- [John Veroneau](#), former Deputy USTR and former USTR General Counsel; and
- [Gina Vetere](#), former Senior Policy Advisor to the Deputy USTR and former Director of IP and Innovation at USTR.

If you have any questions concerning the material discussed in this client alert, please contact the following members of our International Trade and Public Policy and Government Affairs practices:

Contacts in Washington

Christopher Adams	+1 202 662 5288	cadams@cov.com
Alan Larson	+1 202 662 5756	alarson@cov.com
John Veroneau	+1 202 662 5034	jveroneau@cov.com
Gina Vetere	+1 202 662 5647	gvetere@cov.com
Victor Ban	+1 202 662 5553	vban@cov.com

Contacts in Beijing

Tim Stratford	+86 10 5910 0508	tstratford@cov.com
Yan Luo	+86 10 5910 0516	ylo@cov.com
Ashwin Kaja	+86 10 5910 0506	akaja@cov.com

This information is not intended as legal advice. Readers should seek specific legal advice before acting with regard to the subjects mentioned herein.

Covington & Burling LLP, an international law firm, provides corporate, litigation and regulatory expertise to enable clients to achieve their goals. This communication is intended to bring relevant developments to our clients and other interested colleagues. Please send an email to unsubscribe@cov.com if you do not wish to receive future emails or electronic alerts.