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U.S. Targets Remaining \$300 Billion in Chinese Imports with Proposed 25% Tariff

Proposes list of 3,812 products, citing stalling negotiations and Chinese retaliatory actions

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International Trade; Public Policy

On May 13, days after [increasing tariffs](#) on \$200 billion in Chinese imports, the U.S. Administration [proposed imposing](#) an additional 25 percent tariff on a new list of \$300 billion in Chinese imports. The Administration cited China's "failure to meaningfully address" problematic intellectual property (IP) practices and its retaliatory responses to U.S. tariffs as a basis for this proposed action.

If implemented, the tariffs on \$300 billion in Chinese imports would be the fourth tranche of tariffs imposed under Section 301 of the Trade Act of 1974 (Section 301), based on the U.S. Administration's [determination in March 2018](#) that China's technology transfer and IP policies are harming U.S. companies. The Section 301 tariffs currently in place have been implemented in three tranches. 25 percent tariffs on [\\$34 billion](#) and [\\$16 billion](#) in Chinese imports took effect in July and August 2018, respectively. A 10 percent tariff on a third list of [\\$200 billion](#) in Chinese imports was initially imposed in September 2018, though this rate [increased on May 10](#) to 25 percent after the Administration cited "lack of progress" in negotiations and concerns that China had backtracked from earlier commitments. All products included in the three tranches are identified by an 8-digit tariff classification under the Harmonized Tariff Schedule of the United States (HTSUS). With respect to the first two tranches, the Administration has granted certain product-specific exclusions at the 10-digit level and has announced a forthcoming exclusion request process for the third tranche.

This proposed fourth tranche of tariffs covers "essentially all products" at the 8-digit level not already subject to tariffs, as explained in the May 13 notice. The new list includes apparel, textile, and footwear products classified in Chapters 61 through 64 of the HTSUS, and a variety of animal, plant, food, and beverage products classified under Chapters 1 through 22. Notably, the proposed fourth tranche excludes "pharmaceuticals, certain pharmaceutical inputs, select medical goods, rare earth materials, and critical minerals."

Importantly, although the notice confirms that previously granted exclusion requests (i.e. product-specific exclusions granted in a separate process after Lists 1 and 2 went into effect) "will not be affected" by the new tariffs, the new list includes tariff sub-headings that were previously removed from earlier proposed tariff lists following review of public comments. For example, in mid-June 2018, after completing its review of comments on the initial proposed tranche of tariffs, the Administration [removed iron and steel products](#) falling under Chapters 72 and 73 from its final list of \$34 billion in Chinese imports. The proposed fourth tranche, however, includes iron and steel tariff classifications from Chapters 72 and 73 that were previously taken

off of the first tranche. In addition, Section 2 of the newly proposed tariff list also proposes to add back items removed at the 10-digit level from the final List 3 tariff list.

The Administration plans to solicit public comments regarding the product list through both hearing testimony and written submissions. 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 10. June 17 is the deadline for written submissions. At the hearing to commence on June 17, participants will be able to testify and respond to questions from the Section 301 Committee. Post-hearing rebuttal comments are due within seven days after the final day of the public hearing (the hearing will likely run multiple days). As with earlier tranches, the Office of the United States Trade Representative (USTR) has specifically asked for comments addressing whether the duties on a product “would be practicable or effective” in countering China’s problematic IP practices, and whether the duties “would cause disproportionate economic harm to U.S. interests, including small- or medium-size businesses and consumers.” After these proceedings, USTR will publish the final product list in the Federal Register.

This latest action responds in part to additional retaliatory Chinese tariffs announced on May 13. China’s State Council Customs Tariff Commission [stated](#) that on June 1, it would raise existing tariffs on \$60 billion in U.S. imports, which it had [previously imposed](#) in response to the third tranche of Section 301 tariffs. The new Chinese tariffs would range from 10 to 25 percent, though products previously subject to a 5 percent tariff would not see an increase. The Commission also [announced](#) that it would establish an exclusion request process.

Companies with interests in U.S.-China trade relations should move quickly to assess the potential impact of the new tranche of tariffs and consider whether to participate in the public comment process. Companies should also closely monitor developments in bilateral trade talks, which might affect the timing and scope of final tariffs on \$300 billion in Chinese imports, and whether they will be implemented at all.

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- [Gina Vetere](#), former Senior Policy Advisor to the Deputy USTR and former Director of IP and Innovation at USTR.

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