

# Trump Administration Proposes New Tariffs on Chinese Products Spared from Prior Action

by Dave Townsend and T. Augustine Lo

On May 13, 2019, the Office of the United States Trade Representative (“USTR”) publicly released a notice of the Trump Administration’s intention to subject another US\$300 billion in annual U.S. imports of Chinese-origin goods to an additional punitive import tariff, up to 25%, under Section 301 of the Trade Act of 1974. This tariff action closely follows the Trump Administration’s tariff hike last week from 10% to 25% on US\$200 billion in annual Chinese-origin imports under Section 301. Like the first three rounds of tariffs on Chinese-origin goods under Section 301, the USTR will now solicit public comments and hold a public hearing before finalizing the list of goods subject to these new tariffs, which the U.S. Government would collect in addition to all other import duties. Once implemented, the four rounds of Section 301 tariffs will cover substantially all American imports of Chinese-origin goods.

The USTR proposal would reach many new businesses, industries and sectors that previously had been spared from these Section 301 tariffs. The latest USTR notice lists more than 3,800 classifications from Harmonized Tariff Schedule of the United States (“HTSUS”) and would cover agricultural commodities, food, chemicals, steel, aluminum, mechanical and electrical items, computers and related products, aerospace products, TVs and many other items. However, the USTR proposal does exclude pharmaceuticals and certain inputs for pharmaceutical products, select medical items, rare earth materials and certain other rare minerals. USTR’s stated goal in announcing this new list was to cover “essentially all products not currently covered by” the first three rounds of Section 301 tariffs imposed during 2018.

This latest proposed set of tariffs continues a cycle of tit-for-tat tariffs between the two countries over the past year. As previously reported, the United States and China have been engaged in a series of trade negotiations since 2018 when the Trump Administration began levying Section 301 tariffs on imports from China and China then responded with its own countermeasure tariffs on U.S. goods imported into China. The USTR’s third round (“List 3”), worth approximately US\$200 billion in annual imports into the United States, first came into effect in October 2018 at 10% and was increased to

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25% last week following a pause taken in December 2018 to allow the two nations to negotiate some resolution of their substantial underlying differences in national trade and investment policies. Last week's latest rate increase occurred even as senior Chinese trade negotiators were in Washington, DC for high level talks with the Trump Administration, but those talks ended without any announced agreement or sign of progress.

For its part, China then announced earlier this week its own countermeasure tariffs, updating four previously promulgated lists to impose additional tariffs, ranging from 5% to 25%, on U.S.-origin goods exported to China. These countermeasure tariffs will extend across about 5,000 Chinese tariff schedule classifications and adversely affect about US\$60 billion in annual sales by American farmers and other producers of those goods. (The tariffs can be viewed in Chinese [here](#).) Those Chinese tariffs are scheduled to take effect on June 1. Mirroring to some extent the U.S. process, China has also announced a formal procedure to allow affected Chinese companies to seek exclusion from those new Chinese tariffs on a case-by-case basis. The [deadlines](#) are July 5, 2019 for items subject to the first batch of Chinese countermeasures announced in summer 2018, and October 18, 2019 for the recent round of countermeasures announced this week.

The USTR's latest announcement proposing further Section 301 tariffs on almost all remaining Chinese-made imports not already covered by the 2018 tariffs also states there will be a public hearing for affected companies and individuals to present their views. The USTR has scheduled that single hearing in Washington DC for June 17, 2019. To request an opportunity to present at that hearing, members of the public must submit a written request to the USTR by June 10, 2019. The USTR will also consider any other written public comments on the proposed tariff process if received by the hearing date – June 17, 2019.

If the USTR follows the model of the 2018 Section 301 tariffs, once it has formally adopted its new tariffs after consideration of the public comments it expects to receive, the USTR will also announce a separate formal procedure for affected American companies to seek exclusion on a case-by-case basis from those new tariffs.

Dorsey & Whitney can assist companies in the United States, China or any third country who would be adversely impacted by the imposition of the proposed American or Chinese tariffs on their products. Dorsey's attorneys can assist in presenting a company's views to the respective government agencies and can review options for mitigating the effects of such additional tariffs.