CLIENT ALERTS & INSIGHTS

China Tariffs - New Section 301 Customs Duties Effective September 27, 2024

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The importing community received long-awaited clarity in plans for new Section 301 customs duties on Chinese goods this last Friday, September 13. The Office of the US Trade Representative ("USTR") released the final text of a Federal Register Notice with an effective date of September 27, 2024. Subsequent tariff increases will apply on January 1 of 2025 and 2026. The Notice explains the USTR's findings from its Four-Year Review of Trump Administration trade actions against China under Section 301. This is the latest development in our team's series of reports throughout the summer on China tariffs and practical next steps for domestic importers: Immediate Next Steps for New China Tariffs Action Items for New China Tariffs

USTR Notice and Impact - The USTR determination released on the official website of the USTR is not materially different from what we have forecast for months. The USTR determined to: (1) impose additional Section 301 duties on a sweeping range of items including those in "strategic sectors", (2) increase the rate of existing 301 duties in "strategic sectors" of China's economy, and (3) make certain product specific updates.

1. Additional Section 301 Duties. Additional duties ranging from rates of 25% to 100% were added to the HTSUS and will apply in stages from 2024 through 2026. The duties apply to a sweeping range of products across strategic industries, including certain face masks and respirators, certain lithium-ion batteries, and iron, aluminum, and steel products, among others.
2. Increased Tariff Rates in Strategic Sectors. Tariff increases apply to battery parts (non-lithium-ion batteries), electric vehicles and their batteries, semiconductors, steel and aluminum products, certain minerals, ship-to-shore cranes, steel and aluminum products, and certain medical equipment (specific face masks and syringes and needles). The increased tariff rates on these products ranges from 25% to 100% with some rates set for 25% in 2024 then increasing to 50% and 100% in 2025 and 2026.
3. Product-Specific Updates. Those product-specific updates include: proposed increased tariff rates for certain tungsten products, wafers, and polysilicon which will be open for public comment in a separate notice at a later date. These updates also include the establishment of a list of subheadings eligible for consideration for temporary exclusion under a process specific to machinery used in domestic manufacturing and solar manufacturing equipment. Exclusions for domestic manufacturing items apply to items classifiable under certain subheadings of Harmonized Tariff Schedule Chapter 84 and 85. Exclusions for solar manufacturing apply to items classifiable under certain subheadings of Harmonized Tariff Schedule Chapter 84.

Why We Are Here Right Now - These decisions are based on the findings of the USTR's May 14, 2024, report "Four-Year Review of Actions Taken in Section 301 Investigation: China's Acts, Polices, and Practices Related to Technology Transfer, Intellectual Property, and Innovation" and President Biden's Memorandum issued that same day. The Report explained that while Section 301 actions did push China toward eliminating some technology transfer-related acts, policies, and practices, it remains that China has not eliminated many of those practices that harm the United States. China has also become more aggressive with US interests through cyber intrusions and cybertheft as it works acquire valuable technology. The White House issued its Memorandum to specifically direct tariff increases to further encourage China to eliminate the acts, policies, and practices that pose threat of harm to the US economy.

A closer look at the Report explores the play-by-play of US-China trade relations. The Report included detailed economic analysis showing that the Section 301 duties had a small negative net effect on the US economy, while nonetheless yielding positive impacts as intended in sectors directly targeted by the duties. The USTR also observed, and many of us have also seen in the supply chains we touch, that the customs duties reduced overall U.S. imports of goods from China as procurement teams source from friendlier countries around the world. This diversification of supply is believed by the USTR to promote US supply chain strength.

Next Steps for Importers - Our "Action Items" bulletin on May 31 set out four proactive steps for importers to take in preparation for today. The windows available for comment have passed. The next best steps are to: (1) check HTSUS codes and descriptions set out in the Notice against goods imported from China right now and in the near term, and (2) plan for any procurement impact including challenges that may result from increased cost for manufacturing or sale to customers. Inbound shipments that are "on the water" may have little room for adjustment. For others, price elasticity may accommodate the increase in landed cost or alternate supply may be available including from "friendshoring" countries outside of China. If alternate supply is sourced by procurement teams then one point to watch is the rise in potential for evasion risk where Chinese goods are simply routed through Mexico.

The Benesch team is available to help all impacted industries navigate these changes to China sourcing. No question is too broad or too narrow.

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