
USTR Releases List of Chinese Products to Be Subject to Section 301 Tariffs, and China Responds by Implementing Retaliatory Tariffs in Kind

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On June 15, both the Office of the United States Trade Representative (USTR) and the Chinese Ministry of Finance announced that products imported under certain tariff lines from China and from the United States, respectively, would be subject to an additional duty of 25%.

Specifically, in the morning, USTR [announced](#) the release of a list of products that will be subject to the additional 25% duty in accordance with President Trump's March 22 [Presidential Memorandum](#) directing action pursuant to Section 301 of the Trade Act of 1974. The list includes 1,102 separate US tariff lines valued at approximately \$50 billion in 2018 trade values. The duties are intended to affect products that benefit from the Chinese technology transfer, intellectual property, and innovation-related laws, policies and practices that USTR determined in its [Section 301 Report](#) to be "unreasonable or discriminatory and burden or restrict U.S. commerce."

The product list is composed of two sets of eight-digit US tariff lines:

- The [first set](#) ("List 1") contains 818 tariff lines (covering approximately \$34 billion in Chinese imports) from a proposed list of 1,333 lines that USTR published in the [Federal Register](#) on April 6, 2018 ("April 6 List"). After providing an opportunity for public notice and comment, including a hearing, USTR removed 515 lines from the April 6 List. Customs and Border Protection will begin to collect the additional duties on products covered by the remaining 818 tariff lines starting July 6, 2018.
- The [second set](#) ("List 2") contains an additional 284 tariff lines (covering approximately \$16 billion in Chinese imports) that the interagency Section 301 Committee identified as benefiting from the Chinese measures at issue in the Section 301 investigation. USTR will subject this second list to a public notice and comment process, including a hearing, before determining which of the tariff lines will be subject to additional 25% duties. The applicable dates are as follows:
 - June 29 – Deadline to request to appear at the hearing
 - July 23 – Written comments due

- July 24 – Hearing
- July 31 – Post-hearing rebuttal comments due

As noted above, USTR removed several tariff lines from its initial April 6 List, including lines covering several categories of steel, aluminum and pharmaceutical products, as well as televisions and various types of machinery and tools. The products added in List 2 include a variety of chemicals, plastics and resins, locomotives and other railway equipment, and semiconductors and related components. As a general matter, the two lists focus on products from industrial sectors that contribute to or benefit from China's "Made in China 2025" industrial policy.

USTR also announced that it will implement a system for parties to request exclusions of particular products from the additional duties, as it "recognizes that some U.S. companies may have an interest in importing items from China that are covered by the additional duties." USTR will issue a notice detailing this process "within the next few weeks."

The additional tariffs are only one part of the actions that the President directed in his March 22 Presidential Memorandum. The Administration has already filed a [request for consultations](#) with China at the World Trade Organization with respect to certain Chinese technology licensing requirements. It also plans to impose investment restrictions and export controls on Chinese companies in an effort to limit China's acquisition of "industrially significant" technology. The White House has indicated that these investment restrictions will be announced by June 30.

By mid-afternoon, China had already reacted to the June 15 action. In particular, China's Ministry of Finance issued a [notice](#) stating that China will impose additional duties of 25% on tariff lines covering approximately \$34 billion in US imports, also starting on July 6. The Chinese list of tariff lines includes agricultural products, automobiles and aquatic products. Chinese Foreign Ministry Spokesperson Lu Kang [issued remarks](#) characterizing USTR's imposition of the additional 25% duties as "deeply regrettable" and a move that "not only hurts bilateral interests, but also undermines world trade order." He stated that "[a]ll economic and trade outcomes of the previous talks will now lose effect." In a [separate statement](#), Chinese Foreign Ministry Spokesperson Yan Shuang stated, "If the U.S. takes unilateral and protectionist measures that harm Chinese interests, we will respond immediately by taking the necessary decisions to safeguard our legitimate rights and interests." It is widely expected that China will continue to impose retaliatory tariffs targeting US exports of equivalent value to those subject to the additional US duties (i.e., totaling approximately \$50 billion when the US imposes additional duties on the products in List 2). Further, Spokesperson Kang's remarks indicate that any concessions made by China in the recent negotiations between the two countries regarding trade issues—including commitments to purchase nearly \$70 billion of US agricultural, energy and other products—are now void.

President Trump, in turn, issued a [Statement](#) in support of USTR's imposition of the 25% additional duties, asserting that "[t]he United States can no longer tolerate losing our technology and intellectual property through unfair economic practices." President Trump also threatened to impose "additional tariffs if China engages in retaliatory measures, such as imposing new tariffs on United States goods, services or agricultural products; raising non-tariff barriers; or taking punitive actions against American exporters or American companies operating in China." It is expected that the

Administration's response to China's imposition of additional tariffs will extend beyond the measures already anticipated by the President's March 22 Presidential Memorandum.

WilmerHale continues to monitor these developments closely.

Authors



**Ambassador
Charlene
Barshefsky**
RETIRED PARTNER

☎ +1 202 663 6000



David J. Ross

PARTNER

Chair, International Trade,
Investment and Market Access
Practice Group

✉ david.ross@wilmerhale.com

☎ +1 202 663 6515



Lester Ross
PARTNER

✉ lester.ross@wilmerhale.com

☎ +1 202 663 6000



**Heather M.
Petruzzi**

PARTNER

✉ heather.petruzzi@wilmerhale.com

☎ +1 202 663 6028