

USTR Proposes Fourth Round of Section 301 Tariffs on \$300 Billion Worth of Chinese Imports; China Announces Increased Tariffs on \$60 Billion in US Goods

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As indicated on May 10, the Office of the US Trade Representative (USTR) today released a draft Federal Register notice proposing additional tariffs on approximately US\$ 300 billion worth of goods imported from China (“List 4”), pursuant to Section 301 of the Trade Act of 1974. (Please refer to the [White & Case Client Alert, USTR Indicates Tariffs on Chinese "List 4" Goods Forthcoming; Details Expected on Monday, May 13](#) for details on USTR’s initial announcement.) The draft notice proposes additional ad valorem duties “of up to 25 percent” on List 4 goods, i.e., nearly all remaining Chinese goods not already included on Lists 1-3, and establishes a timeline for public comment and a hearing on the proposed tariffs. Significantly, List 4 includes goods that were excluded from prior lists in response to public comments, including all five products omitted from List 2 (containers; alginic acid; splitting, slicing and paring machines; floating docks; and microtomes) in mid-2018.

The key dates announced in USTR’s draft notice are as follows:

- Requests to appear at the public hearing and summaries of testimony are due on **June 10, 2019**.
- The hearing will take place on **June 17, 2019**, at which time written submissions are also due.
- Post-hearing comments are due seven days after the final day of hearings. Given the large number of goods at issue, this deadline will likely be **on or around June 27, 2019**.

Similar to previous tariff proposals, USTR requests that comments on the proposed List 4 tariffs address (i) the specific tariff subheadings to be subject to increased duties, including whether the subheadings listed in the Annex should be retained or removed, or whether subheadings not currently on the list should be added; (ii) the level of the increase, if any, in the rate of duty; and (iii) the appropriate aggregate level of trade to be covered by additional duties.

In commenting on the inclusion or removal of particular tariff subheadings on List 4, USTR requests that

commenters also address whether imposing increased duties on a particular product would (i) be practicable or effective to obtain the elimination of China's acts, policies, and practices at issue in the Section 301 investigation; or (ii) cause disproportionate economic harm to US interests, including small- or medium-size businesses and consumers.

The notice indicates that “the United States and China intend to continue further discussions,” and in remarks today, President Trump said he had “not made that decision yet” whether to impose the final round of tariffs.

Earlier on Monday, China announced its own retaliatory tariffs covering approximately US\$ 60 billion in goods imported from the United States, in response to the United States' May 10 “List 3” tariff hike. China's State Council Tariff Commission (SCTC) issued two notices on May 13:

- [SCTC Notice No. 3 of 2019](#) increases tariffs as of June 1, 2019, from the levels currently dictated by SCTC Notice No. 8 of 2018 (September 18, 2018). Tariffs will increase from (i) 10 percent to 25 percent on **2493 “List 1” goods**; (ii) 10 percent to 20 percent on **1078 “List 2” goods**; and (iii) 5 percent to 10 percent on **974 “List 3” goods**. Tariffs will remain at 5 percent for **595 “List 4” goods**. These tariff levels were first proposed by Notice No. 6 of 2018 (August 3, 2018), but were revised downwards by SCTC Notice No. 8 of 2018 following the United States' decision to impose only 10 percent, rather than 25 percent, tariffs on its own List 3.
- [SCTC Notice No. 4 of 2019](#), introduces a product exclusion procedure open to Chinese companies that import, produce, or use products covered by SCTC Notices No. 5, 6, and 7 of 2018. The procedure applies only to products covered by additional tariffs already announced by China which have not been suspended or terminated (such as on vehicles and auto parts). Applications relating to Notices No. 5 and 7 of 2018 shall be filed between June 3 and July 5, 2019, and applications relating to Notice No. 6 of 2018 shall be filed between September 2 and October 18, 2019. Applications will be considered based on (i) the difficulty in searching for alternative sources; (ii) the injury caused by the additional tariff to the economy of the applicant; and (iii) broader negative impacts caused by the additional tariff to the relevant industry or to society. Exclusions, once granted, will be valid for one year.

Monday's back-and-forth represents a significant escalation of the already-tense bilateral trade dispute. The United States' List 4 announcement follows its recent increase of tariffs on “List 3” Chinese imports worth approximately US\$ 200 billion (from 10 percent to 25 percent) on May 10. (Please refer to the White & Case Client Alerts, [US Trade Representative Issues Federal Register Notice to Implement May 10th Tariff Increase on “List 3” Chinese Goods: Chinese Delegation to Visit Washington on May 9th](#) and [United States Increases Section 301 Tariff Rate on “List 3” Goods to 25 percent, Clarifies Treatment of Goods Exported Before May 10.](#)) Additional details on the List 3 tariff increase, including on the product exclusion process, have not yet been released.

Outlook

Negotiations are set to continue, and a breakthrough is possible—although perhaps unlikely—before the effects of the latest escalation are fully absorbed by either country. The United States' List 3 tariff hike took effect on May 10, but it does not apply to goods already in transit from China on that date, so most affected goods are not yet arriving on US shores. Likewise, China's latest action only takes effect on June 1, leaving a nearly three-week negotiating window prior to enforcement. Furthermore, today's List 4 notification leaves some flexibility (specifically mentioning that the United States and China would continue negotiations, and proposing tariffs “up to 25 percent”). In an interview on Sunday, Director of the National Economic Council Larry Kudlow said that Chinese officials have invited US Trade Representative Robert Lighthizer to Beijing to continue talks. President Trump also confirmed that he would meet with President Xi at the G-20 summit in late June.

USTR's Federal Register notice on the proposed List 4 tariffs is available [here](#).

For more information on the Chinese retaliation (in Chinese), please see:

[Notice No. 3 of 2019 \(List 1; List 2; List 3; List 4\)](#)

[Notice No. 4 of 2019 \(Implementation details\)](#)

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