

On August 18, 2017, US Trade Representative (USTR) Robert Lighthizer initiated an investigation to determine whether the acts, policies, and practices of the Chinese government related to technology transfer, intellectual property, and innovation are unreasonable or discriminatory and either burden or restrict US commerce under Section 301 of the Trade Act of 1974, as amended (19 U.S.C. § 2411). On March 22, 2018, USTR released its Section 301 report, finding that China's policies harm to the US economy by at least US\$50 billion per year. Simultaneously, President Trump signed a Presidential Memorandum outlining a series of remedies that his Administration may take, including plans to increase tariffs on certain Chinese imports.

On April 3, USTR released a proposed list of around 1,300 tariff lines representing US\$50 billion worth of Chinese exports that could face an additional 25% tariff. Within 12 hours, China issued its own list of tariff lines that could face an additional 25% tariff. At the end of the week, President Trump directed his Administration to examine whether the US should impose another US\$100 billion in tariffs on Chinese exports to the US. China has vowed further retaliation.

As the US and China continue to exchange escalating threats, US and Chinese businesses alike find themselves caught in the middle of what could become a costly trade war. Businesses must assess their supply chains and prepare to engage with lawmakers and Trump Administration officials to mitigate the impacts of these proposed actions.

The Tariffs

The United States

In compiling its [list of 1,300 tariff lines](#) targeting US\$50 billion worth of Chinese products, USTR tried to identify products that (1) are associated with China's "Made in China 2025" industrial policy, and (2) would harm US consumers the least. The proposed list includes semiconductors, engines, machinery, batteries, tires, and instruments used in aeronautical and space navigation, but does not include consumer goods such as apparel. US businesses should closely review the list of tariff lines, especially if they import products under the following chapters of the Harmonized Tariff Schedule of the United States: 28, 29, 30, 38, 40, 72, 73, 76, 83-91, 93, and 94. USTR is now accepting public comments on whether goods should be added or removed from the proposed list.

China

The 106 tariff lines selected by the Chinese – also representing US\$50 billion in US products – is more targeted, focusing on aircraft, automobiles and chemicals, as well as agriculture products like soybeans, wheat, corn, cotton, sorghum, tobacco and beef. In 2017, China was the top export market for US soybeans (US\$14 billion) and sorghum (US\$1 billion), and the second largest export market for US cotton (US\$6 billion). Tariffs on beef would be symbolically painful for US ranchers, as this market just reopened to beef from US cattle in 2017 after 14 years.

Next Steps

World Trade Organization

China wasted no time challenging the Section 301 tariffs at the World Trade Organization (WTO). On April 4, China submitted a consultation request to the international trade body, the first step in the formal dispute process. In its request, China described the US actions as "a gross violation" of the country's WTO obligations. The US has 10 days to respond to this request.

Imposition of Tariffs

China has indicated its tariffs will not go into effect until the US officially imposes the 301 tariffs, a process that could take several weeks and even months. The public has until May 11 to submit comments on the USTR list, and a public hearing will be held on May 15. Post hearing comments are due May 22. USTR must then consult with other agencies before publishing and implementing a final list of tariffs, which could differ from the list released on April 3. Larry Kudlow, the director of the National Economic Council, said he did not expect "any concrete action for several months," with respect to the tariffs.

Bilateral Discussions

Over the coming weeks, Chinese and US government officials are expected to meet in an effort to deescalate trade tensions. White House Trade Advisor Peter Navarro confirmed that Treasury Secretary Steve Mnuchin and US Trade Representative Robert Lighthizer will lead the discussions for the US. The Trump Administration has yet to release any further details on when these talks may begin.

Public Comment Period

Trade tensions are escalating, but no new tariffs are in place at this time. USTR will engage with the public on whether to amend its proposed list over the next several weeks, but is not obligated to issue its final list by any date. China's tariffs will go into effect only if the US tariffs are imposed. Thus, the two sides could maintain their stalemate as negotiations get underway.

US and international businesses must review both the US and Chinese lists to assess the extent to which their supply chains could be impacted. In the United States, they must immediately prepare to comment on any goods they believe should be removed from the proposed tariff list.

We are actively assisting affected clients by assessing the impact of the proposed remedies, preparing public comments, advocating to senior Administration officials as they prepare proposals for the President's consideration, and helping navigate any changes to US regulation of trade and investment with China. We welcome the opportunity to do the same for you.

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