

## Keeping track of 301 tariffs on imports from China

By the time you read this article, tariffs against imports of tens of billions in yearly value of Chinese goods will have taken effect for goods entered or withdrawn from warehouse for consumption. And just recently, our current administration has proposed another \$267 billion of Chinese product to tax including clothing and shoes.

What you should know:

- **CoO.** The additional percent duties are based on country of origin, not country of export, and only apply to products of China. Imported goods that are legitimately the product of Hong Kong (HK) or Macau (MO) are not subject to the additional Section 301 duties.
- **Filing.** In addition to reporting the HTSUS Chapter 1-97 classification of the imported good, importers must also report the HTSUS 9903.88.01 special tariff number for covered goods.
- **Chapter 98.** The additional tariff will not apply to products for which entry is properly claimed under a heading or subheading in Chapter 98. When submitting an entry in this case, the filer must first report subheading 9903.88.01 followed by the applicable Chapter 98 subheading and the Chapter 1-97 classification for the commodity being imported.
- **Sets.** When importing goods put up in sets for retail sale (in accordance with General Rule of Interpretation 3) that contain articles subject to the Section 301 remedy, if the product that imparts the essential character to the set (i.e. the HTSUS provision under which the entire set is classified) is covered by the Section 301 remedy, then the entire set will be subject to the additional 25% duties. If the HTSUS provision under which the entire set is classified is not covered by the Section 301 remedies, but the set contains components that are classified in a subheading covered by the 301 list, the 301 duties will not be assessed on the individual components.
- **Lists:**
  - The first list included 818 tariff lines valued at \$34 billion worth of imports from China. The list can be found here:  
<https://ustr.gov/sites/default/files/enforcement/301Investigations/List%201.pdf>
  - A second list adding 284 product lines to the Section 301 tariffs which cover approximately \$16 billion Chinese imports was effective August 23<sup>rd</sup>. The second list can be found here:  
<https://ustr.gov/sites/default/files/enforcement/301Investigations/List%202.pdf>



Any of these products on the list of tariffs published by the Office of the U.S. Trade Representative (USTR) that are admitted into a U.S. foreign trade zone (FTZ) on or after may be admitted only as “privileged foreign status,” except for products eligible for admission under “domestic status,” which are subject to the Section 301 duties. Both



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“privileged foreign status” and “domestic status” FTZ admissions will be subject to any Section 301 duties upon entry for consumption.

- A third list is under review with 10% or 25% duties depending on the item. The list can be found here: [https://ustr.gov/sites/default/files/301/2018-0026%20China%20FRN%207-10-2018\\_0.pdf](https://ustr.gov/sites/default/files/301/2018-0026%20China%20FRN%207-10-2018_0.pdf)

What you can do to understand the impact of these tariffs:

1. Run an ACE report of your imports and identify the items by HTS number and Chinese country of origin. Calculate the additional tariff expense using the imported value of these goods and provide to your upper management for further action.
2. Work with purchasing to determine if any of these items are procured domestically. These items will become much more expensive from your supplier due to the tariffs and you should consider other sourcing options.
3. All importers of items on the second list proposed for Section 301 tariffs should consider providing comments to USTR. After consideration of comments in its initial review, the USTR removed 515 tariff subheadings from the initial list of 1,333 proposed items. So, the effort appears to pay off. Comments can be submitted here: <https://ustr.gov/sites/default/files/301/USTR-2018-0005-DRAFT-0002.pdf> More information about the hearings and the request for public comment can be found here: <https://www.federalregister.gov/documents/2018/06/20/2018-13248/notice-of-action-and-request-for-public-comment-concerning-proposed-determination-of-action-pursuant>
4. If your company uses FTZ's for manufacturing, consider commenting to the USTR on the unfair treatment of tariffs applied to 'non-privileged' parts and materials. Right now, removal from the zone of Section 301 items must be reported at “the highest value foreign component country of origin” on entry documentation. This means the value of non-privileged foreign status parts and materials legally admitted to an FTZ for manufacture into a different finished product will be assessed the additional tariff even when substantial transformation takes place to create a US origin good.
5. Consider utilizing duty drawback. Importers can get a 99% refund of duties paid on imported Section 301 items that are subsequently exported or assembled into a finished good then exported. If this program did not have a benefit in the past for your company, it may now.

Hopefully this article points you in the right direction to assess the full impact of the Section 301 tariffs and create a strategy to deal with them.

If you have any questions, or need help with a trade compliance audit, BPE Global is here to help! Julie Gibbs is a Director of BPE Global. You can reach Julie by email at [Julie@bpeglobal.com](mailto:Julie@bpeglobal.com).