



U.S. Raises or Threatens to Raise Tariffs to 25% on Almost All Imported Chinese Goods

What Businesses Need to Know About the Current and Proposed Increases and How Burr Can Assist With Mitigation of Tariff Risk

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SUMMARY

On Friday, May 10, 2019, the United States government through the United States Trade Representative (USTR) took two actions that may together impose 25% tariffs on almost all Chinese imports into the U.S. The first action continued prior tariff increases begun in 2018 on a certain subset of imported goods. The second expanded 25% tariffs to include most of the remaining products imported from China (an additional \$300 billion of Chinese goods). Importers who object to the expanded tariffs can air those objections at a June public hearing.

The USTR indicated that it will also provide affected businesses with an opportunity to apply for tariff exclusions for specific products (based on HTS codes and to-be-published procedures). We expect exclusions to be generally available to importers who demonstrate that (1) China represents their sole sourcing option, (2) tariffs on their imports will cause severe harm to the U.S. economy, or (3) tariffs on their imports will have no impact on or are unrelated to China's trade strategy. Burr can help review your specific situation, and prepare and file exclusion requests.

Importers of Chinese-made goods potentially subject to the new tariffs (including components of domestically-produced products, or goods resold in the U.S.), may also find it advantageous to submit comments on the proposed increases in writing or testify at the public hearing. We can help craft those comments and testimonies as well.

DISCUSSION

In early May, President Trump instructed the USTR to increase tariffs from 10% to 25% on certain Chinese products having an annual trade value of approximately \$200 billion (the "May Tariff Increase"). The increase went into effect on May 10, 2019. At the same time, the USTR announced a related process that will allow affected businesses to apply for exclusions of specific products. Exclusions have previously been considered, and granted on a limited basis, under earlier tariff programs.

A wide variety of products are subject to the May Tariff Increase, including various Chinese produce and other food and beverage products, numerous textiles and apparel, and consumer goods like air conditioners, lawn mower parts, and vacuum cleaners. Also affected are various telecommunications equipment, processing units, computer parts, furniture, and automotive parts.

On the same day that the May Tariff Increase went into effect, the USTR issued a *Notice of Request for Comment* on the Administration's proposal to increase the scope of the tariffs to include additional Chinese imports having an annual trade value of approximately \$300 billion (the "Proposed Scope Increase"). The Proposed Scope Increase will apply tariffs as high as 25% to "essentially all products" not affected by the May Tariff Increase, casting a much wider net. Such additional goods may include virtually all Chinese-sourced consumer electronic products (e.g., TVs, cameras, phones, etc.), with some exclusions. The excluded items include pharmaceuticals, certain pharmaceutical inputs, selected medical goods, rare earth materials, and critical minerals.

The Proposed Scope Increase will be the subject of a public hearing on June 17. Requests to testify must be received by USTR by June 10, 2019, and written submissions are due by June 17. Written rebuttals to hearing testimony must be filed by June 24, 2019.

The USTR specifically requested that "in commenting on the inclusion or removal of particular tariff subheadings listed (in the notice), ... commenters address specifically whether imposing increased duties on a particular product would be practicable or effective to obtain the elimination of China's acts, policies, and practices, and whether imposing additional duties on a particular product would cause disproportionate economic harm to U.S. interests, including small or medium-size businesses and consumers."

In other words, if an importer believes that the Proposed Scope Increase will unfairly affect its business, or have no real impact on China's trade practices, now is the time to speak up. Those wishing to do so should consider (in concert with their public relations and government relations advisors) submitting written comments and/or testifying. Burr's trade team can help with that process.

To further discuss the new or proposed tariff increases, please contact:

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or the Burr & Forman attorney with whom you regularly work.

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