Friday, September 21, 2018

It is mid-September, months into the United States’ trade dispute with China, and there is no end in sight to the dispute. There are three significant deadlines for U.S. importers to consider involving the tariffs the U.S. has imposed on Chinese goods pursuant to Section 301 of the Trade Act of 1974[1]:

(1) **List 3 Tariffs Imposed**: On September 17, 2018, the United States significantly escalated the dispute with the announcement of a third round of tariffs on an estimated $200 billion of Chinese goods (List 3). This third round affects four times the trade volume than the previous two rounds combined. An additional tariff of 10 percent will go into effect Monday, September 24, 2018, and will increase to 25 percent on January 1, 2019. The Office of the U.S. Trade Representative (USTR) released a finalized list of the 5,745 tariff subheadings for the Chinese imports that will be subject to the tariffs. A formal notice of this tariff action will be published in the Federal Register in the coming days. If the USTR proceeds as it did for the previous two rounds, it will announce in the coming weeks, an exclusion request process for exempting specific products from the tariffs.

This third round is a significant escalation because it is being imposed at once on virtually the entire proposed list[2] of $200 billion worth of goods. In April 2018, the USTR proposed tariffs of an additional 25 percent on an estimated $50 billion in Chinese goods but then did not levy the tariffs all at once. Instead, the USTR levied tariffs on an estimated $34 billion of those goods as of July 6, 2018, followed by tariffs on the $16 billion balance of those goods as of August 23, 2018. Escalating matters further, President Trump stated on September 17, 2018, that retaliation by China to the List 3 tariffs would lead the United States to immediately pursue tariffs on the balance of U.S. imports from China estimated at $267 billion.

(2) **List 2 Exclusion Request Process Established**: On September 18, 2018, the USTR issued the procedures for seeking an exclusion for parties adversely affected by the 25 percent tariffs on $16 billion of Chinese goods (List 2) that came into effect on August 23, 2018. As with the first round of tariffs, an exclusion that is granted will be retroactive to the day that the tariffs were imposed. The process for seeking a one-year exemption from the tariffs for products on List 2 is the same type of process in place for the first round of tariffs with the same list of criteria: whether the product is available only from China, whether the tariff on the product would cause severe economic harm to the requestor or other U.S. interests and whether the product is strategically important or related to Chinese industrial programs such as the “Made in China 2025” program focused on high technology industries. The deadline for exclusion requests for List 2 is December 18, 2018.

(3) **List 1 Exclusion Request Deadline Approaching**: Less than three weeks remain until the October 9, 2018, deadline for parties adversely affected by the 25 percent tariffs on $34 billion of Chinese goods (List 1) to submit exclusion requests. As of September 19, 2018, affected parties had filed 1412 exclusion requests in the little more than two months since the USTR opened its exclusion request docket. All exclusion requests remain pending.

**Summary chart of the three tariff lists and relevant dates and deadlines**
The US is imposing tariffs on Chinese goods pursuant to Section 301 of the Trade Act of 1974 after the Office of the US Trade Representative (USTR) investigated and determined that China’s policies and practices with respect to technology transfer and intellectual property were unreasonable and discriminated and burdened U.S. companies.

The USTR sought public comment starting on July 17, 2018, for its proposed List 3 of an estimated $200 billion of Chinese goods. After considering public comments and hearing testimony, the USTR released the finalized List 3 with 297 tariff subheadings partially or fully removed and with 5,745 partial or full subheadings of the original 6,031 from the proposed list.

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