

U.S.-China Trade Talks Fail; Customs and Border Protection Clarifies Treatment of Entries of Section 301 Products Currently in Transit

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Friday, May 10, 2019

Trade Talks End Without Agreement

The latest round of trade negotiations between the United States and China ended on May 10, 2019, without an agreement between the two sides. Chinese Vice Premier Liu He reportedly informed officials with the Office of the United States Trade Representative (“USTR”) that President Trump and Chinese President Xi Jinping “would need to work these [trade] differences out themselves.”

Customs Releases New Duty Rate Information for In-Transit Goods

As previously reported in a [May 8 client alert](#), USTR, on May 10, 2019, [increased the duty rate](#) of \$200 billion in Chinese imports covered under the September 21, 2018 [Federal Register notice](#) (“List 3”) from 10 percent to 25 percent.

The annex to the notice stated that the 25 percent duty rate applies to goods that are *exported and entered* on or after May 10. In other words, goods currently in transit, having been exported from China prior to May 10 but which arrive on or after

May 10, will be dutiable at the previous 10 percent rate instead of the new 25 percent rate.

Customs and Border Protection (“CBP”) has now issued a [CSMS notification](#) stating that goods currently in transit, having been exported from China before May 10 but not yet entered into the United States, must be entered for consumption or withdrawn from a warehouse for consumption before June 1 to remain eligible for the previous 10 percent rate.

Goods exported from China on or after May 10 are subject to the 25 percent duty rate regardless of whether they are entered before or after June 1, 2019.

Importers should prepare to provide shipment documentation verifying that the goods left China prior to May 10 to avoid the 25 percent duty rate. If the 25 percent duty rate is assessed when the importer believes the 10 percent duty rate should have been assessed, importers may need to file post-summary corrections to receive refunds for goods that were exported from China before May 10, 2019.

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