Tariff Turmoil Gets Hotter!

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• Antitrust & Trade Regulation
• All Federal
• China

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As has been widely reported, on Friday, first President Trump announced and then USTR Lighthizer confirmed the 301 tariffs on goods out of China will increase. Specifically, the tariffs on the goods on Lists 1, 2 and 3 will rise from 25% to 30% starting October 1, 2019, while the tariffs on the List 4 products will start at 15% on September 1, 2019 or December 15, 2019, rather than the original 10%, depending on whether your product is on List 4A or List 4B. USTR also acknowledged there will be a notice and comment period provided in the Federal Register notice to follow. While no doubt many American traders hope the possibility exists to remove products from any of the lists, that seems highly unlikely. While this upheaval continues, companies should also keep in mind the ability to seek exclusions for goods on List 3 expires on September 30, 2019. The exclusion process for goods on List 4 has still not been published.

The current action was triggered by the announcement by China that it would be raising its tariffs on $75 billion worth of American goods imported into China by 5% or 10%. Perhaps most surprising was the language in the President’s tweet wherein he stated he was ordering U.S. companies to “immediately start looking for an alternative to China, including bringing your companies HOME and making your products in the USA.” In later comments, President Trump stated he believes he has the authority to do so. All he needs to do is declare a state of national emergency and thereby make his “order” enforceable!

In the background of these fireworks came word a U.S.-Japan trade agreement is nearing completion, and a U.S.-U.K. deal is being discussed.
As the tit-for-tat continues, China has decided to impose a 25% tariff on American autos and auto parts. The other shoe everyone is waiting to drop is China’s publication of its “unreliable entity list.” Bearing in mind this would be a relatively “easy” way for China to take restrictive action against major American companies, it seems reasonable to think the list will be published shortly, and is likely to be focused on well-known American companies. What is known about this list is it will be focused on “foreign companies, organizations or individuals that violate market rules, break the contractual spirit, boycott or cut off suppliers to Chinese companies for non-commercial reasons, and causing serious damages to the legitimate rights and interest of Chinese companies.”

Adding to the excitement, the White House also released on the 21st an announcement about cracking down on opioids and directed its effort towards how the private sector should assist. The announcement coincided with the addition of individuals to the kingpin list, a list of individuals involving in the trafficking of drugs with whom no business (international or domestic) may be done, and oddly includes an admission the mails are being used successfully to complete these transactions. As is often the case with those named to the kingpin list, the announcement was intended to notify the financial sector that it needs to “better” identify red flags and other indicators of these “complex schemes.” This is, of course, relevant to international traders since it may well result in additional questions about transactional parties, but also may slow down access to capital, and delay shipments. Periodically, the Dept. of Justice brings seizure cases against funds where it has information leading to the assertion one of the parties to the transaction is involved with money laundering, and thereby withholds funds wired to pay for goods delivered by legitimate sellers in good faith. This announcement is another reminder that the need to know your business partners is alive, well and should be taken seriously!

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