

***As Trade War Between the United States and China Escalates,
U.S. Companies Can Still Seek Relief if They Act Soon***

The United States and China have announced actions that dramatically escalate the trade war between them and threaten adverse consequences for many U.S. companies. On May 9, the U.S. Trade Representative (“USTR”) issued a notice stating that, beginning May 10, the Section 301-related tariff rate would be increased from 10% to 25% on a large list of Chinese products with an estimated annual import value of \$200 billion (“List 3”). On May 13, the Chinese government responded by announcing its plans to raise the tariff rate on a wide range of U.S. goods with an estimated annual import value of \$60 billion effective June 1, 2019. On the same date that the Chinese government made its announcement, the USTR unveiled a lengthy new list of Chinese products with an estimated annual import value of \$300 billion (“Proposed List 4”) on which a Section 301-related tariff rate of up to 25% may be imposed. In addition to more information regarding these developments, we provide below suggestions that affected U.S. companies should take quickly to mitigate effects of U.S. and Chinese escalation of trade tensions.

Since the USTR promulgated the final version of List 3 in September 2018 (which can be accessed [HERE](#)), the Section 301-related tariff rate for List 3 products had been kept at 10%. However, on May 9, 2019, the USTR published a notice in the *Federal Register* (84 Fed. Reg. 20459) stating that the Section 301-related tariff rate for List 3 products would be increased to 25% for all imports entered into the U.S. on or after May 10, 2019. Subsequently, on May 15, the USTR published another notice in the *Federal Register* (84 Fed. Reg. 21892) to clarify that items covered by List 3 that were exported prior to May 10 and entered into the United States prior to June 1 are subject to the 10% rate, while all other items covered by List 3 that entered into the United States on or after May 10 are subject to the increased 25% rate.

On a more positive note, based on testimony that the USTR provided to Congress earlier this month, it is expected that the USTR will soon announce exclusion request procedures for List 3 products. Given that the USTR has granted over 1,400 exclusion requests relating to List 1 products (out of the nearly 11,000 requests that were submitted pertaining to List 1 products), it would be beneficial for companies that import List 3 products to consider submitting exclusion requests to the USTR as soon as the opportunity to do so is announced.

Less positively, on May 13, the Chinese government stated that it plans to raise tariffs on certain U.S. goods with an annual import value of \$60 billion effective June 1, 2019. Specifically, on that date: 2,493 kinds of U.S. products will be subject to a 25% tariff; 1,078 kinds of U.S. products will be subject to a 20% tariff; 974 kinds of U.S. products will be subject to a 10% tariff; and 595 kinds of U.S. products will be subject to a 5% tariff. Significantly, “interested parties” (e.g., Chinese importers of covered products) can submit exclusion requests to the Chinese Customs Tariff Commission of the State Council (“CTCSC”). As such, U.S. exporters of covered products may wish to utilize counsel who can work with “interested parties” in preparing effective exclusion requests to be submitted to the CTCSC.

May 16, 2019

In response to the planned retaliatory action announced by the Chinese government, the USTR has recently issued a draft notice to be published in the *Federal Register* relating to Proposed List 4, which can be accessed [HERE](#). The USTR will accept written comments on Proposed List 4, including whether specific tariff subheadings identified on Proposed List 4 should be removed and what increase in duty rate (if any) should be imposed on any final list that may be issued by the USTR. The deadline for written comments is June 17, 2019. The USTR also will hold a public hearing on that date (June 17) in Washington, DC. Parties wishing to provide testimony must submit a request to appear and a summary of proposed testimony to the USTR by June 10, 2019. The deadline for submitting rebuttal comments to the USTR is June 24, 2019.

The International Trade team at FisherBroyles has extensive experience in representing and advising clients on tariff matters, and we are currently helping clients address issues arising from the Section 301 investigation. We can assist your company by reviewing your line of products in an effort to help mitigate the impact of the Section 301 tariffs, by preparing comments and/or providing testimony as to why certain products on the Proposed List 4 should not appear on the Final List 4, and by filing exclusion requests with respect to products that are on List 3 or that may make it onto a Final List 4. If you have any questions regarding the Section 301 tariffs or would like to discuss possible strategies relating to them, please contact any of the following FisherBroyles partners.

Geoffrey Goodale
geoffrey.goodale@fisherbroyles.com
(202) 261-6644



Philip Gallas
philip.gallas@fisherbroyles.com
(816) 401-9622



Michael Cone
michael.cone@fisherbroyles.com
(212) 655-5471



LAW FIRM 2.0[®]

FISHERBROYLES
A LIMITED LIABILITY PARTNERSHIP

CLIENT ALERT

May 16, 2019

About FisherBroyles, LLP

Founded in 2002, FisherBroyles, LLP is the first and world's largest distributed law firm partnership. The Next Generation Law Firm[®] has grown to over 225 attorneys in 22 offices nationwide. The FisherBroyles' efficient and cost-effective Law Firm 2.0[®] model leverages talent and technology instead of unnecessary overhead that does not add value to our clients, all without sacrificing BigLaw quality. Visit our website at www.fisherbroyles.com to learn more about our firm's unique approach and how we can best meet your legal needs.

These materials have been prepared for informational purposes only, are not legal advice, and under rules applicable to the professional conduct of attorneys in various jurisdictions may be considered advertising materials. This information is not intended to create an attorney-client or similar relationship. Whether you need legal services and which lawyer you select are important decisions that should not be based on these materials alone.

© 2019 FisherBroyles LLP