Executive summary

On 15 June 2018, the President of the United States (US) announced that the US will move forward and implement a 25% tariff on US$34 billion of goods from China that contain industrially significant technologies. The actions follow a determination by the United States Trade Representative (USTR) on 22 March 2018 that the acts, policies, and practices of China to forcefully acquire US intellectual property are unreasonable, discriminatory and burden US commerce, costing the US approximately $50 billion per year.

Following the President's statement, the USTR issued a press release and published two lists of US tariff lines subject to the additional duties covering 1,102 product lines and approximately $50 billion worth of imports in total from China. The two lists created by the interagency Section 301 Committee target products that benefit from Chinese industrial policies, including the “Made in China 2025” policy such as aerospace, information and communications technology, robotics, industrial machinery, new materials, and automobiles, while generally avoiding consumer goods such as cellular telephones, footwear and apparel.
The first set of products (15 June final list) contains 818 tariff lines covering approximately $34 billion worth of imports from China and is a sub-set of the USTR’s initial list of products published on 3 April 2018. Customs and Border Protection (CBP) will begin to collect the additional duties on the 818 tariff lines on imports starting 6 July 2018. The refined list follows deliberation by the interagency Section 301 Committee on the USTR’s initial set of 1,333 products after the collection of public comments from nearly 3,200 interested persons and a three-day public hearing conducted from 15-17 May.

The second set of products (15 June proposed list) contains 284 proposed tariff lines covering approximately $16 billion worth of imports from China. These tariff lines will be subject to a public notice and comment period including a public hearing scheduled for 24 July 2018 and further deliberation by the interagency Section 301 Committee before a final determination is made as to whether additional duties will be levied on the products listed. The deadline for submitting comments is 20 July 2018, while the deadline for filing requests to appear at the public hearing is 29 June 2018. Post-hearing rebuttal comments are due on 31 July 2018.

For companies impacted by the products listed, the USTR will provide an opportunity to request exclusions of particular products from the additional duties. While details regarding the process have not been published yet, the USTR announced it will issue a Federal Register notice within the next few weeks explaining the exclusion request process.

**Detailed discussion**

**Revisions to the original proposed list of products and proposed additions**

The USTR’s 15 June final list removes 515 tariff lines which previously appeared on the USTR’s original 3 April 2018 proposed list of products. Notably, all tariff lines falling within the following Chapters of the Harmonized Tariff Schedule of the United States (HTSUS) which appeared on the 3 April list are removed from the final list:

<table>
<thead>
<tr>
<th>Tariff Chapter</th>
<th>Tariff Chapter Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>29</td>
<td>Organic chemicals</td>
</tr>
<tr>
<td>30</td>
<td>Pharmaceutical products</td>
</tr>
<tr>
<td>38</td>
<td>Miscellaneous chemical products</td>
</tr>
<tr>
<td>72</td>
<td>Iron and steel</td>
</tr>
<tr>
<td>73</td>
<td>Articles of iron or steel</td>
</tr>
<tr>
<td>76</td>
<td>Aluminum and articles thereof</td>
</tr>
<tr>
<td>83</td>
<td>Miscellaneous articles of base metal</td>
</tr>
<tr>
<td>91</td>
<td>Clocks and watches and parts thereof</td>
</tr>
<tr>
<td>93</td>
<td>Arms and ammunition; parts and accessories thereof</td>
</tr>
<tr>
<td>94</td>
<td>Furniture...prefabricated buildings</td>
</tr>
</tbody>
</table>

Nonetheless it is worth noting that some new proposed tariff lines from HTSUS Chapters 38 (chemical products), 73 (articles of iron and steel), 76 (aluminum and articles thereof), 84 (machinery and mechanical appliances) and 85 (electrical machinery and equipment) appear on the 15 June proposed list of products.

The final list includes tariff lines under HTSUS Chapters 28, 40, 84, 85, 86, 87, 88, 89, and 90.
### Tariff Chapter Description

<table>
<thead>
<tr>
<th>Tariff Chapter</th>
<th>Tariff Chapter Description</th>
<th>No. of Tariff Lines in 3 April List</th>
<th>No. of Tariff Lines Excluded on Final List</th>
<th>No. Tariff Lines Remaining on Final List</th>
</tr>
</thead>
<tbody>
<tr>
<td>28</td>
<td>Inorganic chemicals; organic or inorganic compounds of precious metals...</td>
<td>4</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>40</td>
<td>Rubber and articles thereof</td>
<td>8</td>
<td>6</td>
<td>2</td>
</tr>
<tr>
<td>84</td>
<td>Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof</td>
<td>537</td>
<td>120</td>
<td>417</td>
</tr>
<tr>
<td>85</td>
<td>Electrical machinery and equipment and parts thereof...</td>
<td>241</td>
<td>55</td>
<td>186</td>
</tr>
<tr>
<td>86</td>
<td>Railway or tramway locomotives...</td>
<td>17</td>
<td>0</td>
<td>17</td>
</tr>
<tr>
<td>87</td>
<td>Vehicles other than railway or tramway rolling stock, and parts and accessories thereof</td>
<td>48</td>
<td>7</td>
<td>41</td>
</tr>
<tr>
<td>88</td>
<td>Aircraft, spacecraft, and parts thereof</td>
<td>16</td>
<td>1</td>
<td>15</td>
</tr>
<tr>
<td>89</td>
<td>Ships, boats and floating structures</td>
<td>11</td>
<td>1</td>
<td>10</td>
</tr>
<tr>
<td>90</td>
<td>Optical, measuring, checking, precision, medical or surgical instruments and apparatus; parts and accessories thereof</td>
<td>164</td>
<td>35</td>
<td>129</td>
</tr>
<tr>
<td><strong>Grand Totals</strong></td>
<td><strong>The USTR's 15 June proposed list of products is comprised of 284 tariff lines not previously included on the USTR's 3 April list and spans 13 HTSUS Chapters, with the majority falling in Chapter 39 (plastics and articles thereof), followed by Chapters 84 (machinery and mechanical appliances) and 85 (electrical machinery and equipment).</strong></td>
<td><strong>515</strong></td>
<td><strong>818</strong></td>
<td><strong>818</strong></td>
</tr>
</tbody>
</table>
Articles of plastic proposed from Chapter 39 span 19 headings, including headings 3901 through 3921 with the exceptions of heading 3915 (waste, parings and scrap, of plastics) and heading 3918 (certain floor and ceiling coverings of plastics). Plastics such as tubes, pipes and hoses (heading 3917), certain plates, sheets, film, foil and strip (headings 3919 through 3921) are included in the proposed list. Notable products on the proposed list include lubricating oils, greases, preparations and certain related additives from Chapters 27, 34 and 38; semiconductor manufacturing equipment from Chapter 84; engines, motors and generators from Chapters 84, 85 and 87; certain electronics and electronic parts/components including integrated circuits from Chapter 85; as well as various vehicles, tractors and vessels from Chapters 84, 86, 87 and 89.

**Actions for Businesses**

Since the final list of tariff lines subject to additional US tariffs has changed from the 3 April proposed list, importers should review their products imported from China to confirm whether they are impacted by the final list. Those who may be negatively impacted by the additional duties, including manufacturers, distributors and consumers, should map their complete, end-to-end supply chain to fully understand the extent of products impacted, potential costs, alternative sourcing options, and to assess any opportunities to mitigate impact. Similarly, they should continue to monitor US actions as announcements concerning the product exclusion request process will be announced over the next few weeks.

Companies exporting US goods to China, as well as China companies who rely on imported US goods, should also monitor retaliatory actions from China which would likely take effect on or around the implementation date of US tariffs.

Companies involved in US/China trade are encouraged to identify the potential impact of additional duties and develop duty avoidance or mitigation strategies. Immediate actions for such companies could include:

- Mapping their complete, end-to-end supply chain to fully understand the extent of products impacted, potential costs, alternative sourcing options, and to assess any opportunities to mitigate impact.

- Identifying strategies to defer, eliminate, or recover the excess duties such as bonded warehouses, Foreign Trade Zones, or substitution drawback and their equivalent under China customs regulations.

- Exploring strategies to minimize the customs value of imported products subject to the additional duties, re-evaluating current transfer pricing approaches, and for US imports, considering US customs strategies, such as First Sale for Export.

Considering the White House statement on 29 May 2018 announcing its intention to implement investment restrictions and enhanced export controls applicable to Chinese persons and entities by 30 June 2018, companies should also understand their existing screening processes and systems, including whether they can be quickly adjusted to address the stricter rules.  

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8. A separate article discusses in detail the applications of indirect tax rules and regulations on the various involved items of plastic from Chapter 39.
Endnotes

1. Currency references in this Alert are to CA$.
3. USTR Section 301 Report, 22 March 2018. See https://ustr.gov/sites/default/files/Section%20301%20FINAL.PDF.
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Indirect Tax

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