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U.S. Tariffs on Chinese Goods Continue

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Many companies have already begun reviewing their supply chains to determine if it is possible to avoid or minimize the use of Chinese factories in the production of their products and components, since the U.S. Government has already imposed two rounds of 25% import duties on \$50 billion worth of imports of Chinese origin (**List 1 and List 2**). Currently, the U.S. Trade Representative (USTR) is considering comments from U.S. businesses and importers on the proposed 10% tariff on over 6,000 categories of Chinese origin goods (**List 3**). President Trump has requested that the USTR consider raising the List 3 tariff to 25%.

Public hearings on the List 3 tariff ended on August 23, and final written comments were due by August 30. Based upon the speed of the List 2 tariff, we would expect that the List 3 tariff will go into effect by the end of September. We would also expect that most of the listed items will be included on the final list, although it is difficult to say whether the final List 3 tariff will be 10% or 25%.

Importers seeking to obtain exclusions to the List 1 tariff have until October 9 to file their exclusion requests with the USTR. At this time, there is still no news on whether the USTR will grant any of the pending exclusion requests. The U.S. Commerce Department has granted exclusions from its separate tariffs on steel and aluminum imports, so there is reason to believe that the USTR will also carefully consider exclusion requests. The USTR has not yet announced the procedures for exclusions from the List 2 tariff. We expect the procedures to be nearly identical to those for List 1 exclusions, but also expect a later deadline for submissions.

Companies importing products and components into the United States should keep two important facts in mind:

First, the tariffs on Chinese goods (Lists 1, 2, and 3) apply to any item that fits within the classifications on the lists, and is legally of Chinese origin. The nationalities of the importer and seller are irrelevant. Many companies appear to mistakenly believe that they can shift simple assembly of otherwise Chinese goods to third countries and avoid the tariffs. However, U.S. law requires a “substantial transformation” of Chinese components into a new product in a third country in order to change the product’s country of origin.

Second, the Section 301 tariffs on Chinese goods are separate from the Section 232 tariffs on imported steel and aluminum, which apply to steel and aluminum from most countries.