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The U.S. Market is Still a Hostile Place for Chinese Goods

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In April of this year, the U.S. Court of International Trade sided with the U.S. Government in the case of *HMTX Industries*, the lead case out of thousands filed by importers, seeking to overturn parts of the U.S. Government's additional import duties on products of Chinese origin (Section 301 duties). The trial court essentially found that the U.S. Government had made all of the proper findings to impose the additional import duties. It is expected that the trial court's decision in *HMTX* will be appealed to the Federal Circuit, however, a resolution of this issue is not likely to occur until 2024 at the earliest. In the meantime, the majority of goods imported into the United States that originate from China will continue to be subject to increased import duties. This is true even if the nationality of the exporter or importer is not Chinese.

The U.S. market has become a very hostile place for Chinese-origin products over the past several years. Under Section 889 of the National Defense Authorization Act for FY 2019, even local contractors cannot supply telecommunications or surveillance equipment to U.S. government purchasers that are made by certain listed Chinese companies. In addition, unlike equipment from other WTO members in Europe and Asia, Chinese goods do not qualify for the exemptions that are available for certain Buy American programs administered by the U.S. Government because China is not a party to the WTO Government Procurement Agreement. At the same time, the U.S. Government has increased scrutiny of the Buy American programs currently covering federal government procurement and continue to enforce anti-dumping and countervailing duties against various Chinese goods and materials imported into the U.S. market at low prices.

Companies sourcing products (and even components) should be careful to ensure that they are aware of the consequences of utilizing Chinese inputs for their goods in the U.S. markets. Even goods that are assembled or finished in another country may still be deemed products of China under U.S. customs laws. The cost of not being aware of this can be significant, including additional import duties or import penalties that may eat into profits, or even the inability to supply goods to U.S. Government buyers.