

## Update: China Tariffs

By **Doreen M. Edelman**

July 6, 2018. On this date, the Trump trade war with China began with 25 percent duties on certain imported products. Since then, we have worked with many companies negatively affected by the Section 301 tariffs on imported goods from China. Here are key takeaways.

- There is no real way to avoid or reduce the duty for each imported item other than by reviewing the bill of materials and supply chain for each product. Companies undertaking this analysis have found that they may have incorrectly determined the country of origin for the product and/or that they may have misclassified certain items.
  - Now is the time to file exclusions for List 2 products. Although List 1 exclusions have not yet produced many excluded goods, filing for an exclusion preserves your right to a refund of the 25 percent duties.
  - Companies are very concerned about the List 3 tariffs. The list hits more retail products, and as of today, November 15, 2018, there is no exclusion process. Duties on List 3 sit at 10 percent today and change to 25 percent on January 1, 2019.
  - Some companies have used this time to conduct supply chain audits and have found that there are ways to alter the supply chain to import parts or components differently.
  - Others are taking this as the “push” needed to shift manufacturing out of China to Vietnam, Malaysia, and other countries. We hear that plane flights out of China to Vietnam are booked solid.
- Consider using bilateral and multilateral trade agreements to reduce duties and shift some of your manufacturing processes. This requires a legal analysis of what constitutes substantial transformation both under the trade agreements and under U.S. import laws.
  - You can challenge a Harmonized Tariff Schedule of the United States (HTSUS) classification that no longer makes sense in today’s global world. U.S. Customs and Border Protection values importers taking the role of “importer of record” seriously and reviewing HTSUS classifications. Support the classification with prior customs decisions, explanatory notes, HTSUS notes, and policy.
  - Finally, every company should ensure that its representatives in Congress understand the full effect the China tariffs will have on your company’s business and employees. Every company can benefit from reaching out. If you want to work through a trade association or your attorney, both can help you. Have your data ready, including the number of employees at your company, the number of families in their district/state, how much these duties will cost your company every month, and how long you can sustain the increased costs before you have to raise your prices and/or breach contracts.

## Contact

Please contact the listed attorney for further information on the matters discussed herein.

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