

# Administration Threatens Increased and New Tariffs on Chinese Goods

May 6, 2019

On May 5, 2019, President Trump indicated, via Tweet, that the current “Tranche 3” import duties on \$200 billion in Chinese goods would rise from 10% to 25% effective this Friday, May 10, 2019. The President also re-stated his willingness to impose tariffs on all currently un-tariffed Chinese imports.

Last year, the Administration imposed tariffs on three successive rounds of Chinese imports. Products covered by the “Tranche 1” tariffs (which cover approximately \$34 billion in annual imports) and the “Tranche 2” tariffs (which cover approximately \$16 billion in annual imports) have been subject to 25% duties since July 6 and August 23, 2018, respectively. Products covered by the “Tranche 3” tariffs, which were made effective on September 24, 2018, have been subject to 10% import duties.

Those duties were initially expected to rise to 25% as of January 1, 2019, but the Administration delayed that increase until March 1, 2019, and then delayed it again indefinitely, as trade negotiations with China progressed. Until the recent Tweets, news of the trade negotiations had largely been positive, with multiple outlets reporting that the two sides were close to reaching a deal. The President’s new Tweets, however, indicate otherwise, and there are reports that a scheduled Thursday visit by the Chinese premier, Liu He, may be cancelled or postponed.

To the extent that the current 10% tariffs on Tranche 3 goods rise to 25%, the Administration is expected to follow through on prior promises to establish an exclusion process for Tranche 3 goods. The Administration created processes by which individual companies could petition for the exclusion of products from the 25% Tranche 1 and Tranche 2 tariffs last year, but has resisted implementing an exclusion process for Tranche 3 products while duties on those goods remained at 10%, despite Congressional pressure to do so. Indeed, U.S. Trade Representative Robert Lighthizer signaled even prior to the President’s announcement of the imminent increase in the tariff rate that the Office of the U.S. Trade Representative, which administers the Tranche 1 and 2 exclusion processes, was preparing for a Tranche 3 process.

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As for the President's threat to levy duties on all Chinese imports that have not yet been subjected to tariffs, the President has previously Tweeted such threats, and it is not yet clear whether a formal "Tranche 4" proposal will be made. For example, in December 2018, President Trump Tweeted that he was considering imposing duties on additional Chinese products, singling out iPhones as a product that would be affected. Despite furious speculation within Washington, no Tranche 4 proposal manifested. Instead, trade tensions appeared to ease with the New Year as the Administration delayed the increase in the Tranche 3 tariffs. Here again, it is not clear to what degree the President means to follow through with a formal proposal to impose tariffs on additional goods – which would likely require notice, comment, and a hearing process, similar to those undertaken prior to imposition of the current Tranches 1, 2, and 3 tariffs.

Should you have any questions, please do not hesitate to contact any of the attorneys listed on this alert.