

**MAY 8, 2019**

For more information,  
contact:

Bradford L. Ward

+1 202 626 2382

[bward@kslaw.com](mailto:bward@kslaw.com)

Stephen J. Orava

+1 202 661 7937

[sorava@kslaw.com](mailto:sorava@kslaw.com)

J. Michael Taylor

+1 202 626 2385

[jmtaylor@kslaw.com](mailto:jmtaylor@kslaw.com)

Jeffrey M. Telep

+1 202 626 2390

[jtelep@kslaw.com](mailto:jtelep@kslaw.com)

---

**King & Spalding**

Washington, D.C.

1700 Pennsylvania Avenue,  
NW

Washington, D.C. 20006-  
4707

Tel: +1 202 737 0500

## Tariffs on \$200 billion in Chinese imports to increase from 10 percent to 25 percent beginning May 10; Exclusion Process to be Established; Tariffs on remaining Chinese imports may be imposed “shortly”

Although U.S.-China trade negotiations had appeared in recent weeks to be moving toward an agreement, the President tweeted on May 5 that the 10 percent tariff currently imposed on \$200 billion in Chinese imports will increase to 25 percent as of Friday, May 10, 2019. The President also indicated that the remaining \$325 billion in Chinese imports that to date have not been subject to additional tariffs would also be subject to 25 percent tariffs “shortly”.

Following the President’s tweeted announcement, other Administration officials explained that China over the weekend had “renege” on certain unspecified “previous commitments” in the negotiations.

### TARIFF INCREASE FROM 10 TO 25 PERCENT

The Federal Register notice implementing a tariff increase from 10 to 25 percent will be published on May 9 and specifies that the increase from 10 percent to 25 percent tariffs will be effective beginning May 10. These tariffs relate to the third tranche of Chinese products (List 3) subject to additional tariffs as a result of a Section 301 investigation initiated in August 2017 regarding Chinese intellectual property policies. This increase had been scheduled to go into effect several months ago but, after President Trump and President Xi met in December 2018, a deadline for the increase was extended and then postponed indefinitely. The notice says that “China has chosen to retreat from specific commitments agreed to in earlier rounds” of negotiations and that the President directed the increase “in light of the lack of progress in discussions with China.”



**PRODUCT EXCLUSION PROCESS TO BE ESTABLISHED**

The notice also states that USTR “will establish” a process to allow parties to request exclusion of specific products from the additional tariffs and that USTR will publish a separate notice to that effect. Exclusion processes have been established for Chinese products covered by List 1 and List 2, and it is expected that the exclusion process established for the List 3 duties will operate under similar procedures.

**TARIFFS ON REMAINING CHINESE IMPORTS MAY BE IMPOSED IN THE NEAR FUTURE**

The President’s May 5 tweet indicated that additional tariffs would be imposed “shortly” on the remaining Chinese imports that have so far not been subject to increased tariffs. The notice to be published May 9 does not address these prospective additional tariffs. Recent USTR practice has been to publish a notice with a list of tariff item numbers proposed for additional tariffs and to request comments on the list. Such a process could take several weeks to a few months. The timing of such a notice is likely to be determined in large part by the outcome of U.S.-China negotiations taking place in Washington, D.C. this week.

**WHAT’S NEXT**

Because the U.S.-China negotiations appeared to be nearing completion, this most recent move by the Trump Administration could be an effort to increase leverage to achieve a deal. However, it is unclear how China will respond to the increase in tariffs. China has historically responded with retaliatory tariffs against U.S. goods including motor vehicles and agriculture products, which it then removed once negotiations were initiated. Accordingly, China could elect to reimpose certain retaliatory tariffs against U.S. goods. China also could respond by withdrawing purchase commitments it made during negotiations, including its commitment to increase purchases of U.S. goods with a combined value of over \$1 trillion over a period of six years. The outcome of this week’s negotiation sessions will also affect when and how China determines to react.

---

**ABOUT KING & SPALDING**

Celebrating more than 130 years of service, King & Spalding is an international law firm that represents a broad array of clients, including half of the Fortune Global 100, with 1,000 lawyers in 20 offices in the United States, Europe, the Middle East and Asia. The firm has handled matters in over 160 countries on six continents and is consistently recognized for the results it obtains, uncompromising commitment to quality, and dedication to understanding the business and culture of its clients.

This alert provides a general summary of recent legal developments. It is not intended to be and should not be relied upon as legal advice. In some jurisdictions, this may be considered “Attorney Advertising.”

ABU DHABI	CHICAGO	HOUSTON	NEW YORK	SILICON VALLEY
ATLANTA	DUBAI	LONDON	PARIS	SINGAPORE
AUSTIN	FRANKFURT	LOS ANGELES	RIYADH	TOKYO
CHARLOTTE	GENEVA	MOSCOW	SAN FRANCISCO	WASHINGTON, D.C.

---