

## International Trade



AUGUST 2018 • NO. 2

### Blank Rome's Trade and Tariff Capabilities

*Experienced Blank Rome government relations and international trade practitioners are ready to help protect U.S. businesses and their suppliers from harm caused by escalating tariffs on imported goods.*

The Trump administration has imposed or threatened to impose new tariffs on thousands of imported products that U.S. businesses and consumers use on a daily basis. For example:

- Tariffs were imposed in June on imports of steel and aluminum products (25 percent and 10 percent respectively) from almost all countries under Section 232 of the Trade Act of 1962, finding that those imports impair national security.
- The administration also has investigations underway considering tariffs on imports of automobiles and auto parts, as well as uranium, under Section 232. Further imports may be targeted on national security grounds in the months ahead.
- The administration imposed 25 percent tariffs on \$34 billion worth of Chinese imports on July 6, 2018, under Section 301 of the Trade Act of 1974, which deals with unfair foreign barriers to U.S. exports. At issue are China's practices regarding technology transfer, intellectual property, and innovation.
- In a rapid escalation of the China dispute, second and third lists of Chinese imports have been published, with a broad range of goods targeted for proposed 25 percent and 10 percent tariffs (valued at \$16 and \$200 billion respectively).

While foreign leaders have pressed the White House for relief, few nationwide or industry-wide exemptions have been granted to date. However, the administration has established two waiver processes that allow U.S. companies to apply for individual exclusions from the tariffs.

The Department of Commerce is overseeing an exclusion process whereby U.S. users of imported-metal products and components can request relief from the steel and aluminum tariffs. Few exclusions have been granted to date. Many requests have been denied on the basis of being incomplete, and the agency has struggled with a backlog of requests. If the steel or aluminum industry objects to a waiver request on the basis that the product can be manufactured in the United

States, the waiver will most likely be denied. This can result in loss of productivity and jobs for U.S. companies using such goods, as well as the time and resources that may be required to resubmit the waivers with more justification. Currently, there is no deadline for these exclusion requests.

The Office of the U.S. Trade Representative (“USTR”) is in charge of the exclusion process for tariffs imposed on goods imported from China. Applications for these waivers for the first list of Chinese imports (i.e., those subject to the July 6 tariffs) have to be submitted by October 6, 2018. Each waiver must address factors including whether the particular product is available in the United States, whether the imposition of additional duties would cause severe economic harm to the requestor, and whether the product is strategically important to China.

At the same time, the administration continues to consider the final composition and timing of the third list of Chinese goods targeted for tariffs. A six-day public hearing has been scheduled starting August 20-23, 2018, with up to 370 witnesses reportedly prepared to testify. The public docket on the third list, already including over 1000 public comments and requests, will remain open until September 6, 2018 for additional written comments and rebuttals.

The list of items for proposed additional duties is included in the following [Federal Register notice](#). Once the second and third lists of Chinese imports are finalized, and go into effect, U.S. importers likely will have a 90-day period (as with the July 6 list) to apply for individual exclusions.

### TRADE AND TARIFF EMERGENCY RELIEF

To assist U.S. companies seeking tariff relief, including legislative options, Blank Rome will utilize a multi-disciplinary approach comprised of government relation specialists and trade lawyers. We are prepared to assist clients with trade and tariff issues by providing the following services:

1. Identify products subject to tariffs and agency officials handling waivers.
2. Track all opportunities for congressional pushback and new trade deals.
3. Assist in preparation and review of waiver applications to ensure compliance with laws and regulations and to counter potential objections to waiver applications.
4. Work with affiliated trade associations and build support with other stakeholders affected by certain tariffs.
5. Work with members of Congress and congressional committees to support waiver applications or seek legislative relief.
6. Meet with White House and agency officials to press for expedited consideration of waiver applications and to improve chances of success.
7. Get letters of support and other communications from Congress for tariff waiver relief.
8. Work with companies on strategy, intelligence, and planning until the waiver process is complete or legislative relief is secured.
9. Gather intelligence and help businesses anticipate risks from potential new tariff initiatives still in the planning stages, including U.S. responses to foreign retaliatory measures.

We are prepared to engage with existing Blank Rome clients, or new clients, to work with them to advise and assist on the above matters. Many companies will eventually be affected by the tariffs and we are here to ensure that businesses maximize their opportunity to petition the administration and Congress to be protected from the negative impacts of the tariffs.

**Please contact any of our team members listed on the following page with questions or for additional information.**

## Blank Rome Government Relations LLC



**Spencer Abraham**  
202.772.5918  
sabraham@blankrome.com



**Joseph McMonigle**  
202.772.5922  
jmcmonigle@blankrome.com



**Scott D. Hatch**  
202.772.5898  
shatch@blankrome.com



**Jennifer G. Ellison**  
202.772.5830  
jellison@blankrome.com



**David Thompson**  
202.420.2771  
dsthompson@blankrome.com

## Blank Rome LLP



**Matthew J. Thomas**  
202.772.5971  
mthomas@blankrome.com



**Joan M. Bondareff**  
202.772.5911  
bondareff@blankrome.com