



The Bottom Line

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SENATE SEEKS REINSTATEMENT OF CHINA DUTY EXEMPTIONS

Summary

A bipartisan group of 40 senators has asked U.S. Trade Representative Katherine Tai to reinstate a process for granting exclusions from the Section 301 tariffs on imports from China

Background

In August of 2017, the President instructed the US Trade Representative (USTR) to investigate China's unfair trade practices. The results, announced in March 2018, concluded that China does engage in activities including foreign ownership restrictions on business in China, requirements for technology transfer to Chinese entities, investment in U.S. firms to obtain cutting-edge technology and intellectual property, supporting and conducting unauthorized intrusions into computer networks of U.S. companies, and manipulation of Chinese currency to inflate the cost of U.S.-manufactured goods in China. At the direction of the President, the U.S. Trade Representative imposed additional duties on products of China (Section 301) to obtain the elimination of the unfair and damaging acts, policies, and practices. The U.S. Trade Representative subsequently established a process by which U.S. stakeholders could request the exclusion of products subject to this action. Since December 28, 2018, the U.S. Trade Representative (USTR) had granted over 2,200 product-specific exclusions across the four Section 301 tariff actions.

As of Jan. 1, 2021, these exemptions expired and virtually all goods previously excluded from these tariffs became subject to them.

Current Status

The USTR granted extensions on the Section 301 tariff exemptions only for certain COVID-19 related products. The USTR notice states that, in light of the rising spread and ongoing efforts to combat COVID-19, maintaining or re-imposing additional duties on certain products subject to the action is not appropriate and the application of additional duties to these products could impact U.S. preparedness to address COVID-19. The notice covers 99 products and is effective through September 30, 2021.

The senators said that while they support efforts to "challenge the inequities in our trade relationship with China," they also acknowledge that "some inputs for American manufacturers and small business remain unavailable outside of China." The senators therefore asked USTR to renew expired and expiring Section 301 tariff exclusions to give these companies "time to plan and modify their supply chains." Over the longer term, they said, USTR should "restart a process to permit companies to apply for exclusions." This process should emphasize "transparency, speed, consistency, and fairness" and reflect "both the practical realities of global value chains and the broader aim of supply chain diversification."

Impact

The reinstatement of the exemptions to the punitive tariffs would be a welcome reprieve for importers. Meanwhile, litigation seeking refunds of the Section 301 tariffs on List 3 and 4A goods from China is moving forward with a recent ruling invalidating the expansion of Section 232 tariffs offering hope that long-term relief from the punitive tariffs is possible.

RESOURCES

[Notice of Product Exclusion Extensions and Additional Modifications](#) (Federal Register)

[Lawmakers Seek Reinstatement of Section 301 Tariff Exclusion Process](#) (Sandler, Travis & Rosenberg)

[CIT Invalidates President Trump's Section 232 Tariffs on Steel and Aluminum "Derivative Articles"](#) (Thompson Hine SmarTrade)