



The Bottom Line

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SECTION 301 EXCLUSIONS EXTENDED

Summary

More than 300 exclusions from the Section 301 tariffs on imports from China, which had been scheduled to expire December 31, are being extended through September 30, 2023. Importers of covered goods can utilize any of these exclusions for any product that meets the description in the exclusion regardless of whether they requested the exclusion.

Background

In 2018, the U.S. Trade Representative (USTR) determined, pursuant to an investigation under “Section 301” (Title III of the Trade Act of 1974), that China’s acts, policies, and practices related to technology transfer, intellectual property (IP), and innovation were unreasonable or discriminatory and burdened or restricted U.S. commerce. To counter them and obtain their elimination, the Trump Administration used Section 301 authorities to impose four rounds of increased tariffs on about two-thirds of U.S. imports from China. However, to avoid harm to U.S. interests, the USTR introduced a new policy allowing stakeholders to request “tariff exclusions” for U.S. imports that would otherwise have been subject to tariffs. Some policymakers and stakeholders have raised concerns about the implementation of the exclusion request process.

The Biden Administration continues to review its trade strategy for China. Actions by the USTR during 2021 and early 2022 were not aimed at providing broader tariff relief. They were limited to extending unexpired exclusions on medical supplies relevant to combatting the COVID-19 pandemic and reinstating certain exclusions that were previously extended. In May 2022, the agency announced a review of all Section 301 actions against China.

Current Status

The tariff exclusion process enabled interested parties to petition for an exemption from the Section 301 tariff increases for specific imports classified within a 10-digit Harmonized Tariff Schedule of the United States (HTSUS) subheading. The time window to submit requests is closed, but the USTR is reviewing all actions related to the investigation, including decisions on whether and how to accept new exclusion requests.

The Office of the U.S. Trade Representative is accepting comments through Jan. 17 as part of a review of all Section 301 tariffs on imports from China. Based on a review of the comments received, the ITC will submit a report to Congress to include trade, production, and price data for the U.S. industries most affected by the tariffs. The report is expected by March 15, 2023.

Impact

According to the published four-year schedule, phase I of the Section 301 tariffs would have expired this past summer, but the USTR announced that it had received numerous requests to continue them. Despite speculation that the Biden administration was preparing to announce changes to the China tariffs, no such changes appear likely in the near term.

These exclusions were initially reinstated on March 28, 2022, and the extension will help align further consideration of these exclusions with the ongoing comprehensive four-year review.

RESOURCES:

[Notice of Reinstatement of Certain Exclusions: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property and Innovation](#) (U.S. Trade Representative)

[Section 301 Update: USTR Announces "Review of Necessity"](#) (Venable LLP)

[Section 301 Tariff Exclusions on U.S. Imports from China](#) (Congress.gov)