



Global Trade Advisory Alert

Section 301 tariff developments: more exclusions granted; technical amendments made; proposed tariff rate increases postponed; and status of exclusion requests

Additional Section 301 tariff exclusions granted

During the month of September, the US Trade Representative ("USTR") published five additional groups of product exclusions from the Section 301 tariff measures applicable to items of Chinese origin, as follows:

Exclusions Granted on September 20, 2019

List 1 exclusions apply to 310 specific product types and cover 724 separate exclusion requests. The exclusions will apply retroactively to 6 July 2018 and extend through 20 September 2020;

List 2 exclusions apply to 89 specific product types and cover 400 separate exclusions requests. The

exclusions will apply retroactively to 23 August 2018 and extend through 20 September 2020;

List 3 exclusions apply to 38 specific product types and cover 46 separate exclusion requests. The exclusions will apply retroactively to 24 September 2018 and extend through 7 August 2020.

Exclusions Granted on October 2, 2019

List 1 exclusions apply to 92 specific product types and cover 129 separate exclusion requests. The exclusions will apply retroactively to 6 July 2018 and extend through 2 October 2020.

List 2 exclusions apply to 111 specific product types and cover 382 separate exclusion requests. The exclusions will apply retroactively to 23 August 2018 and extend through 2 October 2020.

Importers of articles affected by product exclusions may request a refund from US Customs and Border Protection ("CBP") by filing a post summary correction prior to the entry liquidation date or, if the entry has already liquidated, a protest.

Technical amendments made to Section 301 Lists 3 and 4

On 20 September 2019, the USTR issued technical amendments to the Section 301 List 3 and List 4 trade actions. These amendments clarify that List 3 and List 4 supplemental duties do not apply to articles classified under certain Harmonized Tariff System of the US ("HTSUS") subheadings when the articles are already subject to supplemental duties derived from a different HTSUS subheading that is subject to supplemental duties under List 1 or List 2.

This clarification addresses an ambiguity in the original List 3 and List 4 orders that subsequently resulted in CBP ruling HQ H304235, issued on 30 July 2019, which held that the Section 301 tariffs applicable to tool sets of 8206, which are covered by List 3, was 25 percent in addition to the 25 percent supplemental duty applicable to the highest duty-rated article contained in the set, i.e., items of HTS heading 8466 subject to List 1, effectively resulting in a supplemental duty assessment of 50%.

These amendments effectively negate the impact of CBP's ruling by clarifying that certain supplemental duties should not be applied twice in certain circumstances, as further defined in the technical amendments.

Section 301 Lists 1 through 3 duty increase to 30 percent postponed to 15 October

On 29 August 2019, the USTR proposed a modification to the current Section 301 tariffs Lists 1 through 3 that would increase the rate of duty applicable to certain Chinese origin goods from 25 to 30 percent on 1 October 2019. According to the USTR, this action has been delayed until 15 October. Meanwhile, the US and China are expected to resume trade negotiations in early October.

Section 301 exclusion request updates

As of 30 September 2019, 44,018 unique exclusion requests have been submitted, achieving mixed results as summarized below.

List 1: 10,814 exclusion requests have been submitted, 3,530 have been approved (33 percent), and 6,864 have been denied (63 percent).

List 2: 2,869 exclusion requests have been submitted, 689 have been approved (24 percent), and 1,585 have been denied (55 percent).

List 3: 30,335 exclusion requests have been submitted, 61 have been approved (0.2 percent) and 378 have been denied (1.2 percent).

There are 30,911 exclusion requests currently pending in the various stages of the review process.

Details of an exclusion process for List 4 remain to be announced by the USTR.

Deloitte's Global Trade Advisory specialists are part of a global network of professionals who can provide specialized assistance to companies in global trade matters. Our professionals can help companies seeking to manage the impacts and potential impacts of the developments described above by:

- Preparing exclusion requests;
- Obtaining and analyzing import data to assess the potential impacts of the trade measures;
- Examining supply chains and imported products to determine opportunities to manage increased costs due to the additional tariffs;
- Conducting strategic sourcing reviews to identify potential alternative sources of affected products;
- Scrutinizing the accuracy of tariff classifications;
- Considering tariff engineering opportunities;
- Reviewing Incoterms used in contracts to confirm responsibilities for customs duty payments; and
- Undertaking customs valuation planning to manage the impacts of the additional tariffs.

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