



Global Trade Advisory Alert

Update on Section 301 Tariff Reductions, Suspensions, Exclusions, and Requests for Comments

List 4a tariffs to be reduced effective 14 February 2020

On 22 January 2020, the US Trade Representative (“USTR”) published a notice in the *Federal Register* that Section 301 tariffs applicable to China origin goods under List 4a will go down to 7.5 percent from 15 percent effective 14 February 2020. This reduction results from the “phase one” trade agreement signed by the US and China on 15 January 2020, which brought a pause to the ongoing escalation of trade measures between the two nations.

The phase one agreement also mandates structural reforms and other changes to China's economic and trade regime in the areas of intellectual property, technology transfer, agriculture, financial services, and currency and foreign exchange. Notably, the agreement also provides for a dispute resolution system allowing the parties to take proportionate and responsive action that either may deem appropriate.

List 4b tariffs suspended indefinitely

On 18 December 2019, in light of progress made in trade negotiations with China, the USTR published a notice in the *Federal Register* suspending, indefinitely, the implementation of 15 percent supplemental tariffs on List 4b goods, which were scheduled to take effect on 19 December 2019.

The phase one agreement did not change or suspend any other Section 301 tariffs implemented pursuant to Lists 1 through 3, which remain in effect indefinitely. However, in the same notice, the USTR signaled its intention to revisit, as appropriate, any previously provided, extensive public comments and testimony if further modifications are considered.

Prior Section 301 product exclusions extended and comments sought on additional extensions

On 23 December 2019, the USTR published another notice in the *Federal Register* that extended certain exclusions that were set to expire in December for a one-year period, through 28 December 2020. These extensions apply to articles covered by Section 301, List 1, including two 10-digit Harmonized Tariff System of the United States ("HTSUS") subheadings (8418.69.0120 and 8525.60.1010) and four specific product descriptions.

In addition, on 30 December 2019, the USTR published in the *Federal Register* a request for public comments concerning the potential extension of certain exclusions granted on certain articles on List 1 that are set to expire on 25 March 2020. Comments may be submitted to USTR docket number 2019-0024 from 15 January to 15 February 2020. Comments should address:

1. Whether the product or a comparable product is available from sources in the US and/or third countries;
2. Any changes in the global supply chain since July 2018 for the particular product or relevant industry developments; and
3. The efforts that the importer or US purchasers have undertaken since July 2018 to source the product from the US or third countries.

Request for comments on 2020 Section 301 review

On 23 December 2019, the USTR published in the *Federal Register* a request for public comments regarding its annual Section 301 review to identify countries that deny adequate and effective protection for intellectual property (IP) rights or deny fair and equitable market access to US persons who rely on IP protection. Comments are due by 6 February 2020 for all parties except foreign governments, who have until 20 February 2020 to file comments. A public hearing on this issue is expected to be held on 26 February 2020, with the USTR's report scheduled to be published on or about 30 April 2020.

Additional Section 301 exclusions granted

On 6 January 2020, the USTR published in the *Federal Register* additional exclusions from Section 301, List 3, tariffs. These exclusions apply to two 10-digit HTSUS subheadings (8712.00.1510 and 8712.00.1550) and 66 specific product descriptions, which cover 81 separate exclusion requests. These exclusions apply retroactively to the 24 September 2018 effective date of the List 3 tariffs and will extend through 7 August 2020.

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

General Section 301 exclusion update

As of 24 January 2020, 46,525 unique Section 301 exclusion requests have been submitted by US importers with the following results:

- List 1: 10,814 exclusion requests were submitted. 3,656 requests have been approved and 7,158 have been denied (34% approval rate and 66% denial rate respectively).
- List 2: 2,869 exclusion requests were submitted. 1,074 requests have been approved and 1,795 have been denied (37% approval rate and 63% denial rate, respectively).
- List 3: 30,285 exclusion requests were submitted. 396 requests have been approved and 12,206 have been denied (2% approval rate and 40% denial rate, respectively). There are 17,683 requests still pending (58%).
- List 4A: A total of 2,557 exclusion requests have been submitted. No requests have yet been granted or denied.

As of this writing, the submission timeline has closed for filing exclusion requests for goods of Lists 1 through 3, and the deadline to file exclusion requests for articles on List 4A is 31 January 2020.

How we can help

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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