



Global Trade Advisory Alert

Update on Section 301 tariffs on EU and China origin goods, and related exclusions and requests for comments

USTR seeks comments on increasing existing Section 301 tariffs on EU products, extending them to more EU products, and removing them for some EU products

On 26 June 2020, the United States Trade Representative (USTR) published a notice in the *Federal Register* seeking comments from the public on its proposal to increase the 15 to 25 percent Section 301 supplemental tariffs that were imposed on several EU-origin products on 18 October 2019, and whether certain products should be removed or newly added.

The first wave of tariffs targeted aircrafts produced in France, Spain, Germany, and the UK—specifically, new, non-military aircraft with an unladen weight in excess of 30,000 kilograms—as well as a wide range of other EU-origin products, including wine, cheese, agricultural

goods, agricultural equipment, textiles, apparel, and certain tools.

Comments may be filed via the USTR Comments Portal until 26 July 2020, and should include details on:

1. Whether products already subject to additional duties, captured in Annex I of the notice, should be considered for removal;
2. What the potential increase in additional duties for products already subject to the additional duties should be (up to 100%);
3. Whether products newly under consideration or reconsideration, captured in Annexes II and III of the notice, should be subject to additional duties; and
4. What the potential additional duties for the additional products under consideration or reconsideration should be (up to 100%).

The products newly under consideration or reconsideration include:

- Annex II—certain helicopters, aircraft between 15,000-30,000 kilograms, aircraft parts, food, beverages, wine, coffee, alcohol, ammonias, mineral and chemical fertilizers, essential oils and resinoids, leather handbags, wooden tools and parts, paper and articles of paper, yarn, cotton fabrics, synthetic fibers, carpets, floor coverings, rugs, tapestries, fabrics, ski suits, stone, articles of cement, ceramics, articles of glass and glass fibers, precious metals, base metals and articles thereof, magnets, sealed beam lamps, motorcycles and parts, prisms, half-tone screens, lenses, binoculars, photographic flashlight apparatus, telescopic sights, levels, balances, oscilloscopes and oscillographs, wall clocks and clock movements, time registers and recorders, artists' brushes, apparel, blankets, bed linens, hand tools, hand machinery and apparatus, microwave ovens, self-propelled machinery, and knives;
- Annex III—certain food, alcohol, tools, tool parts, trucks, and machinery.

USTR grants additional List 3 exclusions from Section 301 tariffs on goods of Chinese origin

On 28 May 2020, the USTR published a notice in the *Federal Register* granting additional exclusions from Section 301, List 3, tariffs on Chinese origin. These exclusions apply to 17 10-digit Harmonized Tariff Schedule of the United States ("HTSUS") subheadings and 61 specific product descriptions, which cover 70 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.

Products covered by these additional exclusions granted include freeze-dried animal products, vegetable products, chemical products, rubber articles, travel goods, handbags and similar containers, articles of wood, roofing underlayment, diaries, albums for samples or collections, rugs, painting canvas boards, articles of iron, aluminum articles, tools of base metal, machinery and mechanical appliances, assemblies for passenger cars, electrical machinery and equipment, parts for motor vehicles, and miscellaneous manufactured articles.

Importers of articles affected by these 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.

USTR extends prior List 1 exclusions from Section 301 tariffs on goods of Chinese origin and seeks comments on additional extensions of List 3 exclusions

On 2 June 2020, the USTR published a notice in the *Federal Register* that extended certain exclusions from Section 301 tariffs on goods of Chinese origin that were set to expire in June 2020 for a period of approximately seven months, through 31 December 2020. These extensions apply to articles covered by Section 301, List 1, including sixteen 10-digit HTSUS subheadings.

Additionally, on 3 June 2020, the USTR published a notice in the *Federal Register* seeking comments from the public on the extension for up to 12 months of certain List 3 exclusions granted on 24 April 2020, 8 May 2020, and 28 May 2020. Comments may be filed via the USTR Comments Portal and should include details on:

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 September 2018 for the product or relevant industry developments; and
3. The efforts that the importer or US purchasers have undertaken since September 2018 to source the product from the US or third countries.

Comments are due on 7 July 2020.

Additional List 4 exclusions granted from Section 301 tariffs on goods of Chinese origin

On 12 June 2020, the USTR published a notice in the *Federal Register* granting 34 additional exclusions for Section 301, List 4, tariffs on goods of Chinese origin. The product exclusions will apply retroactively to 1 September 2019 and extend to 1 September 2020.

Such exclusions are available for any product that meets the descriptions as provided in the Annex to the notice, regardless of whether the importer filed a specific request for the same. The excluded products include woven fabrics of cotton, down of ducks or geese, cyanuric chloride, kneeling pads of plastics, gloves, lithium-ion batteries, parts of child safety seats, unfinished pads and seats for weight-training exercise machines, fish hooks, mop heads, tufts of swine hair bristles, electrical spark lighters, and watch cases, dials, and parts thereof.

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

General status of requests for exclusion from Lists 1 through 4 Section 301 tariffs on goods of Chinese origin

As of 28 June 2020, 52,746 unique requests for exclusion from Section 301 tariffs on goods of Chinese origin have been submitted with the following results:

- List 1: 10,814 exclusion requests were submitted. 3,657 requests were approved and 7,157 were denied (34% approval rate and 66% denial rate, respectively).
- List 2: 2,869 exclusion requests were submitted. 1,074 requests were approved and 1,795 were denied (37% approval rate and 63% denial rate, respectively).
- List 3: 30,283 exclusion requests were submitted. 1,497 requests were approved and 28,786 were denied (5% approval rate and 95% denial rate, respectively).
- List 4A: A total of 8,780 exclusion requests were submitted. To date, 222 requests have been approved and 2,044 have been denied (3% approval rate and 23% denial rate, respectively, to date). 6,514 requests (74%) remain pending.
- List 4B: The implementation of List 4B, and any associated exclusion process, remains indefinitely postponed.

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 extension 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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