

USTR Announces New Narrow Exclusion Renewal Process for Section 301 Tariffs

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On October 5, 2021, the Office of the United States Trade Representative (USTR) announced that it will be conducting a new but narrow exclusion renewal request process to decide whether it will extend up to 549 Section 301 exclusions that were previously granted and extended but have since expired. The list of exclusions that are up for renewal can be found [here](#). While this is nothing close to the comprehensive overhaul of Section 301 tariffs on China that many had hoped the Biden administration would embark on after taking office, or even a comprehensive reassessment of the thousands of exclusion requests that were rejected under the Trump administration, it does offer a chance at significant tariff relief for companies importing products on this list. Any exclusion that is ultimately reinstated as a result of this process will apply retroactively to October 12, 2021.

USTR is inviting importers and other interested parties to submit requests/comments supporting or opposing the reinstatement of particular exclusions and recommending an appropriate length of time for such reinstated exclusions to remain in force. To be considered, companies must submit comments to USTR during a 50-day window beginning on October 12, 2021, and ending on December 1, 2021. USTR will conduct its review on a case-by-case basis with a focus on whether the particular product remains available only from China. In relation to this factor, USTR is specifically requesting the following information:

- Whether the particular product and/or a comparable product is available from sources in the United States and/or in third countries.

- Any changes in the global supply chain since September 2018 with respect to the particular product, or any other relevant industry developments.
- The efforts, if any, the importers or U.S. purchasers have undertaken since September 2018 to source the product from the United States or third countries.
- Capacity for producing the product in the United States.

In addition to the primary availability factor, USTR will also consider whether extending the exclusion will impact or result in severe economic harm to the company submitting the comment or to other U.S. interests. This part of the analysis will assess the impact of extending the exclusion on small businesses, employment, manufacturing output, and critical supply chains in the United States, and will also take into account the effect of the exclusion on the United States' ultimate foreign policy goal of pressuring China to cease its unfair trade practices.

All importers of products included in this batch of 549 exclusions that are up for renewal should submit comments in order to convey the extent to which U.S. companies and interests continue to be hurt by these tariffs and demonstrate to USTR that relief is needed. Our team is available to assist with preparing and filing such comments.

Contacts

Please contact the listed attorneys for further information on the matters discussed herein.

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