



ATTORNEYS AT LAW

U.S. Section 301 Tariffs: the First List of Approved Exclusions Is Published, But Further Entry Instructions Not yet Available

January 11, 2018

On December 28, 2018, the U.S. Trade Representative announced the government's decision to exclude certain imports on List 1 of the Section 301 tariffs from being subject to the 25% duty. The USTR granted 984 exclusion requests, while denying 1,257 requests. These imports were the first on any of the Section 301 tariffs lists to be excluded from the tariff. The exclusions are retroactive back to July 6, 2018 and will extend for one (1) year from December 28, 2018, the date of publication of the USTR notice (83 FR 67463 - [available here](#)). The approved exclusions apply to 31 product categories, including among others, specified single-row radial bearings, linear acting hydraulic engines and motors, and certain thermostats for HVACs. All importers that bring the excluded goods into the U.S. from China will be benefit from the exclusion – not just those importers that applied. The USTR will periodically announce decisions on the remaining 8,527 exclusion applications for List 1 goods.

Even for those that received the good news that their products were excluded from the Section 301 25% tariff, there does remain some cause for concern. On December 31, 2018, U.S. Customs and Border Patrol (CBP) published an announcement (CSMS #18-000757 - [available here](#)) stating that updated instructions and entry guidance would not occur until after the federal government is funded again. Updates to the Automated Commercial Environment (“ACE”) – the digital system by which the trade community reports and government tracks imports and exports – will be made ten (10) days after the shutdown ends. Only once CBP issues guidance and ACE is updated to reflect the exclusions can importers submit a Post Summary Correction or a Protest for a refund of amounts overpaid based on the tariff.

U.S. Section 301 Tariffs: Leaders Meet and Take a Timeout

December 13, 2018

Earlier this month, President Trump and President Xi of China agreed to a ninety (90) day truce to the trade war that has resulted in increased tariffs on roughly \$250 billion worth of Chinese products being imported to the United States. The truce will go into effect on January 1st, giving the countries until April 1, 2019 to reach an agreement to end the recent trade war. While announcements from the White House have not included many details on the temporary agreement, many American manufacturers will benefit from the decision to pause, at least for now, plans to increase tariffs on the \$200 billion of worth of products announced on September 9, 2018. The United States Trade Representative had previously announced a plan to

raise tariffs on those products from ten percent (10%) to twenty-five (25%) beginning January 1st. ([USTR September 21, 2018 Announcement](#)). As a result of the President Trump's and President Xi's weekend meeting, tariffs on those products will remain at the current duty rate, pending further negotiations between the United States and China.

U.S. Section 301 Tariffs On Chinese Goods

September 24, 2018

On June 20, 2018, the U.S. Trade Representative announced that effective July 6, 2018, pursuant to Section 301 of the Trade Act of 1974, an additional *ad valorem* duty of twenty-five percent (25%) would be applied to 818 goods, with a trade value of approximately \$34 billion, being imported into the United States from China. See 83 FR 28710. Business leaders must classify imported goods according to the U.S. Harmonized Tariff Schedule in order to determine whether their imports are subject to the tariffs.

Following a second announcement on August 16, 2018, an additional 279 goods, with an annual trade value of approximately \$16 billion, became subject to the new tariff on August 23, 2018. See 83 FR 40823. Most recently, on September 21, 2018, the U.S. Trade Representative announced that an additional 5,745 goods, with an annual trade value of \$200 billion would be subject to an additional ten percent (10%) tariff beginning on September 24, 2018, with additional tariff increasing to twenty-five percent (25%) beginning on January 1, 2019. The new tariffs on Chinese imports have and will impact a wide range of industries, including: makers of food and beverages, wood, paper, plastics, iron and aluminum, machinery and automobile part manufacturers, furniture manufacturers, electronics and computers, vinyl tire flooring, and many more.

With the new tariffs on Chinese goods in effect, and the possibility of more to come, it is now more important than ever for business leaders to ensure that their organizations are utilizing the correct HTS code when importing goods from China and elsewhere. However, even where the correct HTS code is included on one of the lists of goods subject to the tariff, the U.S. Trade Representative has announced a process by which importers can apply for an exemption under certain circumstances. The deadlines to apply for an exemption for the lists of goods announced on July 20, 2018 and August 16, 2018 are October 9, 2018 and December 18, 2018, respectively. The deadline to apply for exemption for the list of goods announced on September 21, 2018 has not yet been announced.

Our attorneys represent clients that import finished goods or goods that will be incorporated into finished products sold to the consumer. Our services include classifying goods according to the HTS, verifying the applicable duty owed on the goods, and assisting our clients in requesting exemptions from tariffs.

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