

USTR Opens Comment Process Concerning Modifications to Section 301 Tariffs on Imports from China

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As of May 29, 2024, the Office of the United State Trade Representative (“USTR”) is welcoming [online submission](#) of comments concerning the agency’s [recently proposed modifications](#) to Section 301 tariffs covering a broad range of imports from China. Consistent with the [President’s May 14th announcement](#), USTR is expected to implement tariff hikes on Chinese products from strategically important economic sectors. The increased tariffs affect, in significant part, imports from China of aluminum and steel products and critical minerals, as well as electric vehicles (“EVs”), non-lithium- and lithium-ion batteries, and more.

The Federal Register notice (“Notice”) detailing USTR’s proposed modifications lists subheadings under the Harmonized Tariff Schedule of the United States (“HTSUS”) that would be eligible for temporary exclusion from Section 301 tariffs. Specifically, the Notice proposes that 19 product descriptions covering certain solar manufacturing equipment be granted temporary exclusion from Section 301 tariffs in order to promote the manufacture of solar panels in the United States and reduce reliance on imported panels. Further information about the machinery exclusion process will be set out in a separate notice published by USTR.

The deadline to submit comments addressing the proposed tariff increases is **June 28, 2024, at 11:59 p.m. EST**. Comments are to be submitted via the appropriate docket on USTR’s web portal at <https://comments.ustr.gov>.

Product Coverage

Appended to the Notice are two Annexes that, respectively, list the various tariff classifications for products that are covered by USTR’s proposed modifications to Section 301 tariffs, and, that are eligible for temporary exclusion from the tariffs. Under Appendix A, as proposed, U.S. imports from China would see an additional 382 HTSUS subheadings subject to heightened 301 tariffs, covering approximately \$18 billion in trade. In addition to a wide array of aluminum and steel products and critical mineral subheadings, Appendix A provides for tariffs that would cover the following categories of products:

- Battery Parts (Non-Lithium-ion Batteries);
- Electric Vehicles;
- Facemasks;

- Lithium-ion Electrical Vehicle Batteries;
- Lithium-ion Non-electrical Vehicle Batteries;
- Medical Gloves;
- Natural Graphite;
- Permanent Magnets;
- Semiconductors;
- Ship-to-Shore Cranes;
- Solar Cells (whether or not assembled into modules); and
- Syringes and Needles.

USTR's proposed modifications to Section 301 *ad valorem* duty rates track those that were set out in the [President's announcement](#), including a 100% increase for certain Electric Vehicles, 50% for certain Solar Cells, and 25% for certain Steel and Aluminum products and Critical Minerals.

Implementation of the increased tariffs will be staggered, with increases taking effect between 2024 and 2026, according to the following schedule:

- **August 1, 2024** - Battery Parts (Non-Lithium-ion Batteries), Electric Vehicles, Facemasks, Critical Minerals, Ship-to-Shore Cranes, Solar Cells (whether or not assembled into modules), Steel and Aluminum Products, Syringes and Needles
- **January 1, 2025** - Semiconductors
- **January 1, 2026** - Lithium-ion Non-electrical Vehicle Batteries, Medical Gloves, Natural Graphite, Permanent Magnets

Please consult [the Notice](#) for a more detailed and comprehensive description of covered products.

Eligible and Proposed Exclusions

Appendix B, as proposed, identifies tariff classifications under Chapters 84 and 85 of the HTSUS that would be eligible for consideration under USTR's temporary exclusion process for particular machinery used in domestic manufacturing. The identified subheadings involve products ranging from certain drilling and boring-machines, to certain hydraulic presses, to certain electric machines and more.

It is important to note that the Appendix B list of products-eligible for temporary exemption is merely a proposal, and will not necessarily take effect upon promulgation of USTR's final rule. As such, it is imperative that interested parties carefully review Appendix B, and, where necessary, request temporary exclusion for any products by the **June 28, 2024, at 11:59 p.m. EST** deadline. As noted previously, USTR will be publishing a notice with additional guidance on the machinery exclusion process.

Appendix C proposes 19 temporary exclusions for solar manufacturing equipment, including tariff classifications applicable to the following categories of products:

- Silicon growth furnaces;

- Band saws;
- Machines used in solar manufacturing;
- Diamond wire saws;
- Wire guide roller machines;
- Coolant fluid recycling machines;
- Degumming machines;
- Texture and cleaning machines;
- Thermal diffusion quartz-tube furnaces and boat loading machines;
- Plasma enhanced chemical vapor deposition machines;
- Physical vapor deposition machines;
- Screen printing line machines;
- Cell interconnection machines;
- Module encapsulant preparation machines;
- Frame attachment machines; and
- Machines designed for:
 - transporting polysilicon material;
 - lifting, handling, or unloading solar wafers of particular characteristics for use in solar wafer manufacturing; and
 - lifting, handling, or unloading in the assembly of solar modules.

The proposed exclusions took effect on **May 22, 2024 and will remain in effect through May 31, 2025.**

Comment Process

USTR is soliciting comment on the various proposals outlined in the Notice. With respect to USTR's modifications to Section 301 tariff rates on Annex A items from China, the agency has invited interested parties to comment on the following:

- The effectiveness of the proposed modification in obtaining the elimination of or in counteracting China's acts, policies, and practices related to technology transfer, intellectual property, and innovation.
- The effects of the proposed modification on the U.S. economy, including consumers.
- The scope of the product description to cover ship-to-shore cranes under subheading 8426.19.00 (Transporter cranes, gantry cranes and bridge cranes).
- With respect to facemasks, medical gloves, and syringes and needles, whether the tariff rates

should be higher than the proposed rates.

- With respect to facemasks, whether additional statistical reporting codes under tariff subheading 6307.90.98 should be included.
- Whether the tariff subheadings identified for each product and sector adequately cover the products and sectors included in the President's direction to the Trade Representative.

With respect to Annex B products eligible for exclusion from the modified Section 301 tariffs, USTR's notice invites comments on the following:

- Whether the subheadings listed in Annex B should or should not be eligible for consideration in the machinery exclusion process, and
- Whether Annex B omits certain subheadings under Chapters 84 and 85 that cover machinery used in domestic manufacturing and should be included.

Lastly, USTR has requested comments on the proposed scope of subheadings excluded from the modified Section 301 tariffs under Annex C, including any amendment to product descriptions provided therein.

Again, comments on USTR's proposed modifications to the Section 301 program must be submitted at <https://comments.ustr.gov/> by **June 28, 2024 at 11:59 p.m. EST**.

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Please contact our [International Trade](#) and [Trade Remedies](#) team with any questions or concerns about participating in the notice-and-comment process for modifying the Section 301 tariffs.