

July 12, 2018: USTR Publishes Section 301 China Products Exclusion Procedures in Federal Register

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Effective July 6, 2018, the United States imposed a 25% duty on numerous products from China pursuant to Section 301 of the Tariff Act of 1974 based upon a finding that certain unfair trade practices by China have harmed the U.S. economy. The affected products fall under approximately 1,300 separate HTSUS codes that include products in industries such as aerospace, information and communication technology, robotics, and machinery.

Yesterday, the USTR published the Section 301 Exclusion Procedures in the Federal Register, where interested parties may request a product exclusion. Similar to the Section 232 exclusion requests, the 301 exclusion requests must be submitted and processed through a docket system on the Regulations.gov website. Requests may be submitted until October 9, 2018 and, if granted, will be retroactive to July 6, 2018. All requests will be posted to the Regulations.gov website, followed by a 14 day comment period when parties adverse to the exclusion are provided the opportunity to advance the position as to why the exclusion should not be granted. Finally, the petitioner and other interested parties have 7 days to reply either in support or opposition to the request.

The exclusion requests will require information concerning whether the product (1) is available only from China and if comparable products can be sourced in the United States or other countries, (2) whether the additional duties would cause severe economic harm to the requester or other US interests, (3) whether the targeted product is strategically important or related to the “Made in China 2025” Program and (4) the annual quantity and value of the Chinese origin product purchased for the last 3 years, along with identifying product information and HTSUS codes. Products granted exclusion will be product specific rather than importer specific. The C&G International Trade Group strongly counsels to take great care in preparing submissions, including supporting data relating to U.S. availability.

We will continue to monitor the developments and guidance provided by both the USTR and CBP relative to the exclusion clarifications and are available to further discuss and review Exclusion Requests as they pertain to your imports.

If you have any questions about any of the above information, or wish to discuss a particular matter, please feel free to speak with any member of our International Business Practice by calling us at 412-297-4900 or visiting <https://www.cohenlaw.com/practices/international-business>. To receive future client alerts, please send an e-mail to bulletins@cohenlaw.com.

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