

Section 301 Exclusion Request Update – First Exclusions Granted

By Steven A. Harris, Esq.

Effective July 6, 2018, the U.S. Trade Representative (“USTR”) imposed additional duties of 25% on the so-called List 1 products from China pursuant to Section 301 of the Trade Act of 1974. An exclusion request process for List 1 products was established with a submission deadline of October 9, 2018. On December 28, 2018, the USTR granted the first set of exclusion requests, as specified in the annex to the Federal Register notice linked [here](#).

The exclusions are established in two different formats: (1) as an exclusion from the Section 301 duties of an entire 10-digit HTSUS subheading (e.g. 8480.71.8045), or (2) as an exclusion from the Section 301 duties of a specifically described product (e.g. spark-ignition engines for marine propulsion, outboard, each rated at not less than 29.83 kW but not more than 44.74 kW (described in statistical reporting number 8407.21.0080)). The exclusions are available to any importer, regardless of whether the importer filed an exclusion request, for any product that falls within the excluded 10-digit HTSUS subheadings or the specific product descriptions. This is in contrast to the exclusion request process for the additional duties on steel and aluminum imposed pursuant to Section 232 of the Trade Expansion Act of 1962 in which a granted exclusion is applicable solely to the requester.

If your imported products have been subjected to Section 301 additional duties, it may be worthwhile to review the HTSUS subheadings and specific products that have been excluded to see if any of your imported products fall within the granted exclusions. If so, you may seek refunds of the Section 301 duties that you have paid since July 6, 2018, and you may utilize these exclusions for new entries through December 28, 2019. Also note that additional Section 301 exclusion requests are expected to be approved in the coming weeks and months and that you may want to monitor the USTR website and/or Federal Register so that you may take advantage of any additional applicable exclusions.

If you have any questions about whether your products fall within the granted exclusions, how to obtain refunds and utilize the exclusions for future entries, or the Section 301 duties in general, we stand ready to assist you. Please feel free to contact any member of our International Business Group by emailing us below, by calling us at 412-297-4900, or by visiting our [webpage](#).

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