

CLIENT ALERT: OPPORTUNITY TO RENEW OR OPPOSE CHINA TARIFF EXCLUSIONS

The United States Trade Representative (“USTR”) will announce on October 8, 2021 that importers may request renewal of any of the 549 expired tariff exclusions, which exempted certain products from the 25% Section 301 tariffs imposed on Chinese products. After an earlier extension, the 549 tariff exclusions expired late in 2020 and earlier this year. Interested companies may also file comments opposing renewal of exclusions. Requests for renewal of or comments opposing exclusions may be filed with USTR from October 12, 2021 through December 1, 2021. If a tariff exclusion was not previously extended, this renewal announcement does not apply.

Beginning in 2018, the Trump Administration imposed an additional 25 percent tariff on \$350 billion worth of goods imported from China following an investigation of China’s policies and practices related to technology transfer, intellectual property, and innovation. The USTR established a process whereby companies could seek exclusions from the tariffs, and to later seek extensions of those tariff exclusions.

Since the exclusions lapsed (apart from certain COVID-related exclusions), companies have been pressing USTR Katherine Tai to allow new exclusions. USTR Tai recently stated she intends to keep the Section 301 Tariffs in place for now during ongoing trade talks with the Chinese government. Although USTR Tai indicated there are no plans to permit new exclusions for other Chinese products, her office will permit companies to request renewal of previous exclusions for the 549 products which already had obtained extensions which are now expired. The list of 549 previously extended exclusions can be found [here](#).

In considering whether to reinstate an exclusion, USTR will focus on whether despite the additional tariffs, the specific product remains available only from China, and requests commenters to address:

- 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, that importers or U.S. purchasers have undertaken since September 2018 to source the product from the United States or third countries; and,
- Domestic capacity for producing the product in the United States.

In addition, USTR will consider whether or not reinstating the exclusion will impact or result in severe economic harm to the commenter or other U.S. interests, including the impact on small businesses, employment, manufacturing output, and critical supply chains in the United States, as well as the overall impact of the exclusions on the goal of obtaining the elimination of China’s acts, policies, and practices covered in the Section 301 investigation.

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Client Alert

October 8, 2021 | Page 2 of 2

The online portal for the fifty-day comment period will open on October 12, 2021 at 12:01 am EDT, and close on December 1, 2021 at 11:59 pm EST. Exclusions that are reinstated will be applied retroactively to merchandise entered or withdrawn from warehouse for consumption on or after the opening of the docket on October 12, 2021.

We have achieved successful results for a number of FisherBroyles clients seeking to obtain tariff exclusions and extensions.

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