CLIENT ALERTS & INSIGHTS

Action Items for New China Tariffs

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The path forward for new tariffs on imports to the United States from China is now emerging. This week the United States Trade Representative (USTR) requested comment on proposed Section 301 tariff modifications and exclusions on imports from China totaling $18 billion in annual trade value, in a Federal Register Notice (the Modifications Notice) dated Tuesday, May 28, 2024. 89 FR 46252. The USTR followed the Modifications Notice with a separate Federal Register Notice that lists the previously granted exclusions that will be expiring and previously granted exclusions that will be extending (Exclusions Notice) dated May 30, 2024. 89 FR 46948. The agency also released a Federal Register Notice that requests comment on the Exclusion Request Form (the Form) that US importers requesting tariff exclusions on machinery used in domestic manufacturing listed under subheadings under Chapters 84 and 85 of the HTSUS. 89 FR 47198.

We outlined the goals of increased tariffs, trade compliance enforcement considerations, and immediate next steps for US importers shortly after the executive branch's May 14, 2024, actions in our article titled "Immediate Next Steps for New China Tariffs". This bulletin outlines action items for importers preparing in response to these changes.

The Modifications Notice - The proposed tariff rate increases or additions range between 25 and 100 percent. The USTR proposes to roll out the tariff modifications in three tranches between 2024 and 2026. Most of the modifications that President Biden has directed the USTR to make which will become effective on August 1, 2024. The USTR proposes a 25 percent duty rate on battery parts (non-lithium-ion batteries), facemasks, other critical minerals, ship-to-shore cranes, and steel and aluminum products. A 50 percent duty rate is being proposed on solar cells (whether or not assembled into modules) as well as syringes and needles. The USTR also proposes a 100 percent duty rate on electric vehicles. A proposed 50 percent duty rate for semiconductors is to take effect in the USTR's second set of tariff modifications on January 1, 2025. Lithium-ion non-electrical vehicle batteries, medical gloves, natural graphite, and permanent magnets imports will begin having a 25 percent duty rate as a result of the USTR's third and final set of modifications beginning on January 1, 2026.

The Exclusions Notice - The USTR will end the existing 301 tariff exclusions previously granted for some products. The agency made its determination after reviewing US importers' written comments to a Federal Register Notice from December 29, 2023, regarding extension of the 429 specific exclusions currently in place. 88 FR 90225.

The USTR will extend tariff exclusions for products that the agency believes will contribute to US importers procuring alternative sourcing outside of China until May 31, 2025. US importers can find the USTR's list of products for which the extended tariff exclusions will apply in Annex C of the Exclusions Notice.

The USTR will allow tariff exclusions that the agency believes will no longer result in US importers seeking alternative sourcing outside of China to expire. As a result of these exclusions expiring on June 15, 2024, US importers must begin paying for Section 301 duties on products listed on Annex D of the Exclusions Notice.

Action Items- US importers have essentially four action items to conduct adequate procurement and cost impact planning, in addition to the steps we laid out in our previous Article:

Check HTSUS Codes and Descriptions - The first step is to determine whether you currently import any of the products classified under the 382 HTSUS subheadings to which the USTR is proposing tariff modifications, the subheadings the USTR is proposing for an exclusion process, the 19 temporary exclusions for certain solar manufacturing equipment, the subheadings for previously granted exclusions that the USTR is extending, or the subheadings for previously granted exclusions that the USTR is ending.

Consider Comment on the Modifications - The second step for those importing products impacted by this action is to consider providing written comment on the USTR's proposal between May 29, 2024, and June 28, 2024. The questions presented by the USTR touch on topics ranging from the effectiveness of proposed modifications, the scope of product descriptions, specific rates, and eligibility of certain subheadings listed for exclusion.

Review and Consider Comment on the Form - The third step is to review the USTR's Federal Register Notice that includes the Form that US importers will use to request tariff exclusions for particular machinery used in domestic manufacturing and classified under Chapters 84 and 85 of the HTSUS. US importers may provide written on the need for the Form, clarity of the Form, and burden to file the Form by July 30, 2024.

Plan for Procurement Impact - A fourth step for those importing products named in the Notice is to review and solidify your global procurement strategy and manage compliance and duty burden. Changes such as these can trigger wide-ranging impacts including the need to find alternate supply, increased supplier vetting, updated supply agreement terms, or to manage customer expectations.

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