

Opportunity for Reinstatement of Section 301 Tariff Exclusions – One Week Remains

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The Office of the United States Trade Representative (USTR) is considering public comment regarding the possible reinstatement of Section 301 tariff exclusions on goods imported from China. The text of the Federal Register notice inviting public comment can be viewed [here](#).

Today there are a total of 549 lapsed tariff exclusions that previously protected the respective goods from application of the Section 301 duties. Some of those exclusions were extended beyond their initial expiration dates although, with a few exceptions related to the COVID-19 pandemic, all of those previously granted product exclusions have now expired.

Now the USTR will evaluate, on a case-by-case basis, the possible reinstatement of each exclusion. Importers, purchasers, and domestic industry are requested to submit comments in support of, or opposition to, reinstatement of particular exclusions. In general, public comments should address:

- Whether a particular or comparable product remains available only from China;
- Whether a particular or comparable product is available from sources in the United States or from third countries;
- Changes in the global supply chains since September 2018 with respect to the product or any other relevant industry developments;
- Efforts of the importers or purchasers to source the product from the United States or third countries; and
- Domestic capacity for producing the product in the United States.

The USTR will also 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. The USTR will further assess the impact of reinstatement of the exclusion on the goal of obtaining the elimination of China's acts, policies, and practices related to technology transfer, intellectual property and innovation covered in the Section 301 investigation.

Comments must be submitted prior to the deadline of December 1, 2021, at 11:59 p.m. EST. All comments must be submitted via the USTR's online portal at <https://comments.ustr.gov>. While comments must be submitted via the online portal, the USTR is offering a sample copy of the "Exclusion Reinstatement Comment Form" as a guide and can be viewed [here](#).

The team at Benesch have been hard at work advising importers, purchasers, and industry on the practical effects and mitigation strategies for tariff actions as well as the ongoing supply chain disruption arising from the global pandemic. Jonathan Todd, a Partner in the Transportation & Logistics Practice Group, is available to discuss at 216-363-4658 or jtodd@beneschlaw.com. Laura Kogan, an Associate in the Transportation & Logistics Practice Group, is also available to discuss at 216-363-4518 or lkogan@beneschlaw.com.