

U.S. Trade Representative Issues New Section 301 Tariff Exclusion Reinstatement

APRIL 27, 2022

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Valuable tariff relief is now available for goods imported to the U.S. from China. On March 23, 2022 the U.S. Trade Representative (“USTR”) published Federal Register Notice 87 FR 17380 retroactively reinstating certain U.S. Section 301 tariff exclusions on goods from China pursuant to the U.S. Trade Act of 1974 (19 USC 2411). The exclusions apply to a sweeping range of products including chemicals, machinery, electrical equipment, plastics, motors and automotive products, textiles, furniture, pumps, bicycles, and myriad other consumer goods. A full list of the exclusions can be found in the Annex to the Federal Register Notice. Though broad in scope, the reinstated exclusions are a small subset of the 549 in place since 2018.

The tariff exclusions have a different retroactive reach for non-liquidated goods and liquidated goods. For non-liquidated goods, exclusions apply to items entered for consumption or withdrawn from warehouse for consumption on or after 12:01 a.m. eastern daylight time on October 12, 2021 and before 11:59 p.m. eastern daylight time on December 31, 2022. For liquidated goods, exclusions apply within the 180-day protest period proscribed by the U.S. Tariff Act of 1930 (19 USC 1514).

U.S. Customs and Border Protection issued guidance stating that Harmonized Tariff Schedule of the U.S. (“HTSUS”) Classification 9903.88.67 can be used to claim the reinstated exclusions (CSMS #514629298). As of April 7, 2022, the functionality for the acceptance of the reinstated products is available in the Automated Commercial Environment (“ACE”). Importers, brokers, and filers can find instructions on submitting entries and amending their filings in 87 FR 17380 Annex A in addition to reporting the regular chapters. Importers can request a refund of the duties paid on previous imports of products by filing a Post Summary Correction and can find additional guidance in CSMS #42566154. As a reminder, the new exclusions apply in addition to 81 other exclusions applicable to products needed to quell the COVID-19 pandemic (86 FR 63438). Those 81 additional exclusions apply through May 31, 2022.

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