

## Insights

# USTR RENEWS HUNDREDS OF SECTION 301 TARIFF EXCLUSIONS FOR IMPORTS FROM CHINA

Mar 24, 2022

On March 23, 2022, the U.S. Trade Representative (USTR) announced the reinstatement of 352 exclusions from the Section 301 tariffs on imported Chinese products in response to public comments solicited in late 2021. The unpublished Federal Register notice lists subject articles to include many retail goods (such as electronics, apparel, and furniture), industrial components, car parts, chemicals, and medical supplies. U.S. importers that have entered such goods since October 12, 2021 should prepare to amend those filings to realize duty refunds and instruct brokers to use the exclusions through December 31, 2022.

Under Section 301 of the Trade Act of 1974, 19 U.S.C. § 2411, the USTR beginning in 2018 imposed additional tariffs on Chinese-origin goods, also establishing a process by which interested parties could request that certain products be excluded from the tariffs—or that previously granted exclusions be extended—on the basis that the products were available only from China or the additional duties would unduly harm American companies. Of more than 2,200 exclusions issued, 549 were extended through the end of 2020.

As we reported at the time, in late 2021 the USTR accepted comments on the reinstatement of these extended exclusions. The USTR's determination in response to these comments reinstates exclusions on 352 products, defined in terms of full ten-digit subheadings of the Harmonized Tariff Schedule of the United States (HTS) or product-specific "carve-outs" thereto. The Federal Register notice provides a full list of eligible goods. These exclusions are in addition to 81 other exclusions effective through May 31, 2022 on certain products needed to address the COVID-19 pandemic.

Chinese goods classified under the identified HTS codes, or that meet the descriptions in the carve-outs, are now eligible for entry without payment of the additional Section 301 duties through the remainder of 2022. To claim the exclusion, customs brokers should indicate an appropriate secondary HTS classification of the goods upon entry. Additionally, importers may seek refunds for Section 301 duties paid on entries on such goods made since 12:01am on October 12, 2021 by filing with U.S. Customs and Border Protection (CBP) post-summary corrections for unliquidated entries, or protests against liquidated entries within 180 days of entry. CBP guidance on these processes is forthcoming.

While the USTR's decision is limited to these 352 exclusions, in 2021 the Senate passed the [United States Innovation and Competition Act of 2021](#), which would reinstate all approximately 2200 exclusions and establish a new product exclusion process. The bill is set to go to conference with the House of Representatives, which passed a companion bill that does not include these provisions. Moreover, in February 2022, the U.S. Court of International Trade held oral argument in litigation challenging the lawfulness of the third and fourth tranches of the Section 301 tariffs in their entirety. A decision against the tariffs could entitle importers to any Section 301 duties paid on subject products.

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