

# INTERNATIONAL BUSINESS ALERT

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## **Comment window closing soong on whether the USTR should continue Section 301 tariff exclusions for more than 175 products of Chinese origin**

The Office of the United States Trade Representatives (USTR) announced it would accept public comments on whether it will continue to end the Section 301 tariff exclusions previously granted and the public has a very short window of time to provide comments. On June 25, 2020, the USTR published two requests for comment:

- [Request for Comments Concerning the Extension of Particular Exclusions Granted Under the September 2019 Product Exclusion Notice From the \\$16 Billion Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation](#) (September 2019 List Notice)
- [Request for Comments Concerning the Extension of Particular Exclusions Granted Under the October 2019 Product Exclusion Notice From the \\$16 Billion Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation](#) (October 2019 List Notice)

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The public has until July 30, 2020 to file comments on whether to continue or end certain Section 301 product exclusions on the above notices.

### **Background**

On Sept. 20, 2019 and Oct. 2, 2019, the USTR published two notices granting Section 301 tariff exclusions for certain products of Chinese origin. (See 84 FR 49600 [September 20, 2019] and 84 FR 52553 [October 2, 2019]). The exemptions granted on Sept. 20, 2019 are identified under numerous 10-digit statistical reporting numbers in the Harmonized Tariff Schedules of the United States (HTSUS), including certain

copolymers of acrylic acid (3906.90.5000), certain granular hydrocarbon resins (3911.10.0000), certain polymer strips curled in a helical fashion (3917.29.0090) and certain plastic drinking straws (3917.29.0090). The exemptions granted on Oct. 2, 2019 are also identified under the HTSUS code, including certain elastomeric petroleum resins (3911.10.0000); certain flexible tubes, pipes, hoses of cross-linked polyethylene (3917.32.0020); certain self-adhesive tape (3919.10.2055); and other products. The exclusions granted on Sept. 20, 2019 are set to expire on Sept. 20, 2020, and the exclusions granted on Oct. 2, 2019 are set to expire on Oct. 2, 2020, unless otherwise extended by the USTR.

### Criteria in evaluating product exclusions

According to the Sept. 2019 List Notice and the Oct. 2019 List Notice, the USTR is seeking public comments until July 30, 2020 on whether to continue or to end certain Section 301 product exclusions granted in the Sept. 2019 and Oct. 2019 notices. In determining whether to continue the exclusions, the USTR will focus on, among other things, the following criteria:

- Whether the product (or a comparable product) is available in the U.S. or from countries other than China;
- Any changes in the global supply chain for that product since Aug. 2018 (or any other relevant industry developments);
- The efforts, if any, by affected importers or U.S. purchasers since Aug. 2018 to source the product from the U.S. or third countries;
- Whether the product covered by the exclusion is subject to an anti-dumping or countervailing duty order issued by the U.S. Department of Commerce; and
- Whether the imposition of additional duties will result in severe economic harm to the commenter or other U.S. interests.

### Takeaway

With the extremely short comment period remaining, importers and purchasers of Chinese products affected by the product exclusion notices should immediately submit their comments to the USTR to avoid possible supply chain interruptions should the Section 301 exclusions not be continued. The importers and purchasers should be prepared to discuss the five factors listed above and their own circumstances. In particular, importers and purchasers should identify the quantity and value of the products they imported in 2018 and 2019, whether such products were sold as a final product or as an input, whether their Chinese suppliers have lowered prices for the product following the imposition of the Section 301 duties on the product in 2018, and whether or not the purchases can be made from within the U.S. or any other countries. Comments must be submitted via the USTR web portal by July 30, 2020.

For more information please contact [Yuanyou Yang](#) or any member of Porter Wright's [International Business & Trade practice group](#).