

INTERNATIONAL BUSINESS ALERT

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SUNNY YANG

412.235.1484

syang@porterwright.com

Reevaluating your supply chain: How the new American-made product qualifications rule may impact your business

The United States Trade Representative (USTR) announced the “[Notice of Product Exclusion Extensions: China’s Acts Policies, and Practices Related to Technology Transfer, Intellectual Property and Innovation](#)” on March 5, 2021. The notice extends the Section 301 tariffs exclusions previously granted in the “[Notice of Product Exclusion](#)” on Dec. 29, 2020 for certain medical care products of Chinese origin needed to address the ongoing COVID-19 pandemic.

The extension impacts entries under headings 9903.88.62, 9903.88.63, 9903.88.64 and 9903.88.65 of the Harmonized Tariff Schedule of the United States, and will be effective through Sept. 30, 2021. U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

Background

In the U.S.-China trade war over the last two years, the USTR has imposed additional Section 301 duties on products of China origin in four tranches.

- [June 20, 2018](#)
- [Aug. 16, 2018](#)
- [Sept. 21, 2018](#), modified [Sept. 28, 2018](#)
- [Aug. 20 2019](#), modified [Dec. 18, 2019](#) and [Jan. 22, 2020](#)

By these tranches, the U.S. has applied Section 301 tariffs on more than \$300 billion worth of Chinese goods. While the trade war halted to

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some extent following the Phase I trade deal between the two countries, the existing Section 301 tariffs remain mostly intact. To date, the Biden administration has not revealed its plans for those tariffs as it undertakes its review of the U.S.-China trade policy.

In implementing the Section 301 tariffs, the USTR established a process under which U.S. stakeholders, such as U.S. importers or distributors, could file requests for exclusion of particular products subject to those tariffs. On March 25, 2020, the USTR [announced](#) possible modifications to remove Section 301 duties from additional medical care products needed to address the COVID-19 pandemic, and a process was established under which companies could apply for exclusion of those eligible medical care or COVID-19 response products. With the pandemic continuing, on Dec. 29, 2020, the USTR [issued a notice](#) that:

- Extended Section 301 tariffs exclusions for 80 medical care and/or COVID-19 response products that were granted previously;
- Granted additional exclusions for 19 medical care and/or COVID-19 response products; and
- Further announced that the USTR might consider further extensions and/or modifications as appropriate.

The exclusions set forth in the Dec. 29 notice are set to expire on March 31, 2021.

Extension of the tariffs exclusion

The March 5, 2021, notice extended the exclusions granted in the Dec. 19, 2020 notice to Sept. 30, 2021. In granting the extension, the USTR considered public comments and the advice of the advisory committees of the interagency Section 301 committee, and, “[i]n light of the continuing efforts to combat COVID-19 . . . has determined that it is inappropriate to allow the exclusions for certain products to lapse.”

The notice also explains that the USTR may continue to consider further extensions and/or additional modifications, as appropriate. U.S. stakeholders who import eligible medical products or COVID-19 response gear should be aware of this exclusion extension and fill out their customs entries accordingly. U.S. stakeholders who import medical products or COVID-19 response gear not currently eligible to take advantage of the existing exclusion available should consider timely filing of their own requests for exclusion so their products may be excluded from Section 301 tariffs going forward.

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