

CLIENT ALERTS

New Modifications in Section 301 Tariffs – Tariffs on the Rise

Client Alert

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There has been a long history of tariffs imposed under section 301 of the Trade Act of 1974, a statute that allows the United States Trade Representative (USTR) to take a broad range of actions to combat certain unfair trade practices by foreign countries.

China was targeted under this statute under President Trump in 2018. The USTR announced on April 3, 2018, that acts, policies and practices of the policies of the government of China related to technology transfer, intellectual property and innovation are "unreasonable or discriminatory and burden or restrict U.S. Commerce." Tariffs were imposed on some 1,300 items from China.

See Butzel Client Alerts for a complete history of section 301 tariffs on China: "New Tariffs on Chinese Exports to United States Linked to Intellectual Property Issues Announced: Hearings to be Held" which contained the original list of products covered. Butzel has repeatedly issued Client Alerts on developments under section 301. See for example: "A New List and a New Exclusion Process for 301 China Tariffs Announced," "The Clock is Ticking on Section 301: List Three Tariffs Increase to 25%," "China Trade War Escalation Continues; New Retaliatory Tariffs Announced by China on \$75B US Agricultural and Automotive Goods; Trump Administration Punches Back with Additional 5% on Section 301 Lists 3 and 4 Chinese Imports" "Section 301 of the Trade Act of 1974 and the Automotive Industry: Past, Present, and Future," "Good News for Thousands of Plaintiffs in Litigation Challenging Section 301 List 3 and List 4A Tariffs," "United States Trade Representative to Consider Reinstatement of Expired Section 301 Exclusions," "Section 301 Tariffs Update: Is the CIT Litigation the Only Option for Relief from the Section 301 Tariffs? Can You Still Join? Isn't Joe Biden Going to Get Rid of Tariffs? What Ever Happened to Exclusions?" "Section 301 Tariffs Update: 1) "Tariffs Have Failed to Alter China's Behavior"; 2) Some Exclusions

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Reinstated; 3) "Review of Necessity" and 4) CIT Panel Remands Lists 3 and 4 to Address Public Comments," "USTR Solicits Importer and Domestic User Comments on Extension of Section 301 Tariffs," "Biden Administration Increases Some Section 301 China Tariffs; Extends Others,"

U.S. importers have borne the brunt of section 301 tariffs and have been hoping for some liberalization. The exclusion process that helped remove section 301 tariffs on goods not made in the U.S. or not available in necessary quantities expired in December 2020. Many groups lobbied Congress and USTR to extend the expired exclusions and provide a new exclusion process.

The USTR was mandated to conduct a four year review of the section 301 duties imposed on China. It first sought input from domestic industries as to whether the tariff should be extended. It was no surprise that many U.S. manufacturers wanted to continue the tariffs. Only after the views were obtained from the U.S. industry were importers and their representatives given the opportunity to submit comments.

Importers hoped that this review would result in the removal of many section 301 tariffs and reinstatement, but recent actions were disappointing.

In a recent Federal Register notice, the U. S .Trade Representative announced certain modifications to section 301. A web portal for public comments is open from September 23 to October 22, 2024. For now, comments are limited to five categories: HTS 8101.94.00, 8101.99.10 8101.99.80 2804.61.00 3818.00.00. Clients and others that wish to learn more about submitting comments can contact the authors or their Butzel attorney.

The final results of this review have been announced: the U.S. Trade Representative found that the China practices that resulted in the original section 301 decision "persist and increasingly burden or restrict U.S. commerce;" and it was found that "China has become more aggressive..."

This is a list of items scheduled for Tariff Increases: Annex A—Tariff Increases, the Harmonized Tariff Number is in the first column with the name of the item, the description is in the second column, the proposed new tariff rate is in the third column, and the timing (effective date) is in the last column.

Please feel free to contact the authors of this Client Alert or your Butzel attorney for more information.

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