

## Section 301 Tariff Update: USTR Now Accepting List 3 Exclusion Extension Comments

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The Office of the United States Trade Representative (USTR) is now accepting comments regarding the possible extension of List 3 product exclusions that are set to expire on August 7. Companies are invited to submit comments on whether particular List 3 product exclusions granted between August 2019 and March should be extended. (USTR is not currently considering the extension of List 3 product exclusions granted after March.)

Commenters have until June 8 to submit their comments and must do so via USTR's comment portal using a digital form. USTR will assess comments from companies on a case-by-case basis and determine whether to grant product-specific exclusion extensions for up to 12 additional months. In addition to company and product information similar to the figures requested on the original List 3 product exclusion request form, USTR's exclusion extension comment form specifically requests the following:

- The commenter's rationale as to whether the product exclusion in question should be extended
- Whether Chinese suppliers have lowered their price for the product in question since September 2018
- Whether the particular product or a comparable alternative is now available from non-China sources
- Any changes to the product's global supply chain or industry that occurred since September 2018
- Any efforts undertaken since September 2018 to source the product outside China

**In evaluating comments to determine whether to extend a particular product exclusion, USTR will primarily focus on whether the product**

**in question is still available only from China despite the first imposition of additional 301 duties in September 2018. And just as it did with respect to List 3 product exclusion requests, USTR will consider whether the imposition of additional 301 duties has resulted in severe economic harm to U.S. interests.**

This opportunity to submit comments in support or against a particular product exclusion covers 11 rounds of List 3 product exclusions granted between August 2019 and March 2020 and is open to any interested party, not just companies that filed their own exclusion requests. So if your company is entering merchandise under an existing List 3 product exclusion, you should consider submitting a comment in favor of an exclusion extension in order to avoid the imposition of an additional 25 percent duty come August (and encourage your business partners to do the same). USTR is still taking the amount of economic harm the 301 duties are inflicting on U.S. interests into account in its case-by-case assessment of each possible extension. Therefore, more submissions and information attesting to the negative effects of 301 duties on U.S. stakeholders and their inability to source a particular product from elsewhere should increase the chances that a particular product exclusion is extended.

USTR is also continuing to request comments regarding possible exclusion extensions for products that fall under other 301 lists on a rolling basis. Please do not hesitate to reach out to us if you would like assistance identifying your company's options with respect to 301 product exclusions or submitting comments regarding List 3 or other product exclusion extensions.

# Contacts

Please contact the listed attorneys for further information on the matters discussed herein.

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