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USTR Announces Section 301 List 3 Exclusion Process

On June 20, 2019, the Office of the U.S. Trade Representative (“USTR”) posted on its website a notice announcing an exclusion process for the tariffs imposed in September 2018 (“List 3”) pursuant to the U.S. Section 301 action against China. This exclusion process will enable stakeholders to request that specific products be excluded from the 25 percent tariff currently applied to the Harmonized Tariff Schedule (“HTS”) categories included on List 3. USTR previously has administered exclusion rounds for Chinese-origin products classified within the HTS categories on Section 301 Lists 1 and 2, which are now closed. Importantly, the List 3 exclusion process will be unique insofar as it will be administered through an electronic portal beginning on June 30, 2019. The formal notice announcing the List 3 exclusion process is expected to be published in the Federal Register on June 24, 2019.

BACKGROUND

On September 17, 2018, USTR announced that it had determined to impose an additional 10 percent tariff on approximately \$200 billion in imports from China. The 10 percent additional tariff became effective on September 24, 2018 and were scheduled to increase to 25 percent on January 1, 2019. In December 2018, however, the United States and China began comprehensive trade negotiations, and as part of these negotiations, President Trump delayed the tariff increase. In April of 2019, the negotiations broke down and President Trump announced on May 9, 2019 that List 3 tariffs would increase from 10 to 25 percent.

LIST 3 EXCLUSION PROCESS

USTR will administer an exclusion process for parties to obtain relief from the additional tariffs assessed against products classified within the HTS categories on List 3. Unlike previous exclusion rounds, the List 3 exclusion process will be administered through an online portal at <http://exclusions.USTR.gov>. Interested parties may submit exclusion requests through the exclusion portal beginning June 30, 2019 at 12:00 pm EDT. The deadline for submitting List 3 exclusion requests will be September 30, 2019.



Each party submitting an exclusion request will be asked to provide information describing the product for which an exclusion is sought, the rationale for the requested exclusion, and other information to help USTR evaluate how the additional duties may impact the requester.

Interested parties may file responses or objections to any exclusion request submitted to USTR. To that end, interested parties will have 14 days to respond or object to an exclusion request posted on the List 3 exclusion portal. All responses or objections will be publicly viewable. Finally, the party that filed the initial exclusion request will have an opportunity to reply to any responses or objections filed against an exclusion request. Any such reply comments must be submitted on the List 3 exclusion portal no later than 7 days after the close of the 14-day response or objection period.

Any granted exclusion will be effective starting from the September 24, 2018 effective date of the List 3 action and will extend for one year after the publication of the exclusion determination in the Federal Register.

TARIFF TRACKER

The King & Spalding Tariff Tracker presents a snapshot of the current status of tariff developments using a map with hyperlinks to lists of specific products affected. To view the map, click [here](#).

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