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USTR Announces Section 301 Tariff Exclusion Request Process

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June 26 2019 – The U.S. Trade Representative (“USTR”) has finalized new procedures to request exclusion of certain products imported from China from tariffs established under section 301 of the Trade Act of 1974 (“Section 301”). The new procedures represent an opportunity for U.S. entities to request, on a product-by-product basis, that the Administration not impose Section 301 tariffs on certain products that were included on the third list of goods subject to the tariffs (“tranche 3”), which was announced by USTR in September 2018. However, the Administration’s willingness to grant tranche 3 exclusion requests, and when it will rule on them, remains uncertain.

As previously [reported](#), products included in [tranche 3](#), which represent approximately \$200 billion in annual imports of Chinese goods, are subject to a 10% duty if exported before May 10, 2019 and entered in the United States before June 15, 2019. Entries of these products that do not meet the two timing requirements are subject to a 25% duty.

According to a notice [published](#) on June 24, 2019, USTR will open the electronic portal for submission of tranche 3 exclusion requests at noon on June 30, 2019. The deadline for submitting requests is September 30, 2019. Once an exclusion request has been posted on the portal, interested parties will have 14 days after posting of the request online to respond and provide comments. If there are responses to a certain exclusion request, the requestor will have until 7 days after the close of the 14-day response period or 7 days after the posting of a response, whichever is later, to provide a reply to the response.

USTR has established a dedicated online portal at <http://exclusions.USTR.gov>. Requestors – including importers, U.S. producers, purchasers, and trade associations – must first register on the portal before they may submit exclusion requests or responses to such requests. Each request must identify a particular product, provide supporting data, and articulate a rationale for exclusion. If an exclusion is granted, it will be effective from September 24, 2018 until one year after the publication of the exclusion in the Federal Register.

It is worth noting that there is no deadline for USTR to decide whether to grant an exclusion. The notice only states that determinations will be announced “periodically.” For goods listed in tranche 1 (subject to tariffs since July 2018), USTR published exclusions as recently as May 14. No exclusions have been granted to date for tranche 2 products – for those products, section 301 tariffs on China were imposed in August 2018, and the window for submitting exclusion requests closed in December 2018.

If you have any questions about the exclusion request or response procedures, please contact one of the experienced trade professionals at Hughes Hubbard & Reed.

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