



CHINA SECTION 301 PRODUCT EXCLUSION UPDATE DECEMBER 13, 2019

List 3 Product Exclusions: On December 12, 2019, the U.S. Trade Representative (USTR) [announced](#) the latest round of approved product exclusions from China Section 301 List 3 duties. These product exclusions are set forth in nine (9) ten-digit HTSUS classifications and thirty-five (35) new product-specific descriptions. They include certain fish, batteries, drive-axles, bicycles, freeze-dried fruit, satin woven fabrics, rope, steel electrical boxes, aluminum ladders and towers, electronic calculators, LED headlights, wheel hubs, chairs, chandeliers, etc.

The product exclusions from the China Section 301 duties are available for any importer for any product classification that falls within the special product descriptions and enumerated ten-digit classifications. This is true regardless of whether the importer filed an exclusion request. Clients may also benefit through filing Post-Summary Corrections or Protests for those entries now covered by a List 3 product exclusion to secure refunds plus interest. List 3 product exclusions are retroactive to September 24, 2018 and effective until August 7, 2020.

List 1 and 2 Product Exclusion Amendments: The USTR also issued pre-publication drafts of notices of amendments to approved China Section 301 [List 1](#) and [List 2](#) product exclusions. The amendments add one, eliminate one, and modify twenty-two (22) product exclusion provisions. Some changes to product exclusion language significantly alter their scope.

The retroactive effect of these changes is unclear at this time. As the USTR did not seek public comment on these substantive revisions prior to implementation, the revisions could be subject to challenge pursuant to the requirements of the Administrative Procedures Act. In a recent and related case, the U.S. Court of International Trade issued a preliminary injunction preventing the withdrawal of a Section 201 product exclusion for bifacial solar panels because the USTR did not provide notice of the withdrawal and seek public comment. [See Invenergy Renewables, LLC et. al v. U.S., CIT Slip. Op. 19-153](#) (Dec. 5, 2019).

Clients may contact [Ryan Thornton](#) to obtain an updated comprehensive spreadsheet that we have prepared of all current product exclusions from China Section 301 duties to date, which includes the changes to the List 1 and List 2 product exclusions.

Please contact [Marshall Miller](#), [Brian Murphy](#), [Sean Murray](#), or [Ryan Thornton](#) with questions or for assistance.

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