

U.S. Trade Representative Opens Comment Period for Section 301 List 2 and List 3 Tariff Exclusion Renewals

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The Office of the U.S. Trade Representative (USTR) updated its Section 301 exclusion portal on May 1, 2020, adding new comment periods for List 1 and List 2 exclusions originally granted in July 2019 and List 3 exclusions granted from August 2019 through March 2020.

List 3 (\$200 Billion List)

USTR is accepting comments for all List 3 exclusions granted between August 2019 and March 2020 during a single comment period lasting from May 1, 2020 to June 8, 2020. Exclusions for List 3 include 913 exclusions in 13 tranches, announced between August 7, 2019 and May 4, 2020.

All companies may request that an existing exclusion be extended, even if they did not submit the original exclusion request that was granted. Companies that oppose an existing exclusion may also submit comments in opposition.

USTR will evaluate the possible extension of each exclusion on a case-by-case basis. The focus of the evaluation will be whether, despite the first imposition of these additional duties in September 2018, the particular product remains available only from China. According to the Federal Register notice, in addressing this factor, commenters should address specifically:

- Whether the particular product and/or a comparable product is available from sources in the United States and/or in third countries.
- Any changes in the global supply chain since September 2018 with respect to the particular product or any other relevant industry developments.
- The efforts, if any, the importers or U.S. purchasers have undertaken since September 2018 to source the product from the United States or third countries.

In addition, USTR will continue to consider whether the imposition of additional duties on the products covered by the exclusion will result in severe economic harm to the commenter or other U.S.

interests.

According to the Federal Register notice, comments may provide both public and confidential information in their request to renew (or oppose the renewal of) a product exclusion, including the following:

- Whether the product or products covered by the exclusion are subject to an antidumping or countervailing duty order issued by the U.S. Department of Commerce.
- Whether you support or oppose extending the exclusion and an explanation of your rationale.
- Whether the products covered by the exclusion or comparable products are available from sources in the U.S. or in third countries. Please include information concerning any changes in the global supply chain since September 2018 with respect to the particular product.
- The efforts you have undertaken since September 2018 to source the product from the United States or third countries.
- The value and quantity of the Chinese-origin product covered by the specific exclusion request purchased in 2018 and 2019. Whether these purchases are from a related company, and if so, the name of and relationship to the related company.
- Whether Chinese suppliers have lowered their prices for products covered by the exclusion following the imposition of duties.
- The value and quantity of the product covered by the exclusion purchased from domestic and third country sources in 2018 and 2019.
- If applicable, the commenter's gross revenue for 2018 and 2019.
- Whether the Chinese-origin product of concern is sold as a final product or as an input.
- Whether the imposition of duties on the products covered by the exclusion will result in severe economic harm to the commenter or other U.S. interests.
- Any additional information in support of or in opposition to extending the exclusion.

For further guidance, please see the Federal Register notice for List 3 renewal comments on the [USTR website](#).

List 1 (\$34 Billion List)

List 1 exclusion renewal comments continue to be divided by tranche based on the date the corresponding exclusions were granted, unlike the List 3 comments referenced above.

The comment period for List 1 renewals closes on June 1, 2020. Exclusions for List 1 include 731 exclusions in 10 tranches, announced between December 28, 2018 and February 11, 2020.

Please see the Federal Register notice for List 1 renewal comments on the [USTR website](#).

List 2 (\$16 Billion List)

The May 1 additions mark the first time that requests for renewal have been accepted for products previously excluded from duties under List 2. The renewal comments will be divided by tranche, like List 1 but unlike List 3.

The comment period for List 2 renewals closes on June 1, 2020. Exclusions for List 2 include 270 exclusions in four tranches, announced between July 31, 2019 and February 25, 2020.

For further guidance, please see the Federal Register notice for List 2 renewal comments on the [USTR website](#).

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