



SECTION 301 CHINA TARIFFS

Section 301 of the Trade Act of 1974 provides the United States with the authority to enforce trade agreements, resolve trade disputes, and open foreign markets to U.S. goods and services. It is the principal statutory authority under which the United States may impose trade sanctions on foreign countries that either violate trade agreements or engage in other unfair trade practices.

SECTION 301 ACTIONS

The USTR can launch investigations on its own and can take action if it is determined that a country has violated international law:

- Insufficient IP Protection
- Discriminatory Market Access
- Low labor standards

Actions can include:

- Withdraw country's benefits under trade agreements
- Impose tariffs, quotas, or fees
- Require country to enter into a binding agreement to change practices
- Other actions within the President's power

USTR's China Section 301 Investigation:

In August of 2017, the USTR initiated an investigation of China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation. The investigation found that China:

- Uses foreign investment restrictions to increase technology transfer (requiring technology transfer in exchange for licensing and regulatory approval)
- Supports Chinese companies' acquisition of foreign firms with technology and desired IP
- Controls negotiation of technology licensing that limits U.S. firms from obtaining fair terms.
- Supports cyber espionage to obtain IP, trade secrets, and other business information.



FIRST FOUR TRANCHES OF TARIFFS

Beginning in 2018, tariffs were imposed following the U.S. Trade Representative's (USTR) Section 301 Investigation on China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation.

Tranche 1 - \$34 Billion U.S. Imports / 818 Products

- 25% Additional Duty – Effective July 6, 2018 (HTS# 9903.88.01)

Tranche 2 - \$16 Billion U.S. Imports / 284 Products

- 25% Additional Duty - Effective August 23, 2018 (HTS# 9903.88.02)

Tranche 3 - \$200 Billion U.S. Imports / 6,031 Products

- 10% Additional Duties – Effective Sept. 24, 2018 (HTS# 9903.88.03 / 9903.88.04)
- 10% "On the Water Provision" – Effective 5/10/19-6/15/19 (HTS# 9903.88.09)
- 25% Additional Duties – Effective June 15, 2019

Tranche 4 - \$300 Billion U.S. Imports / Remaining Products

- List 4A Effective Date – September 1, 2019 (HTS# 9903.88.15)
 - 15% Additional Duties – Reduced to 7.5% effective February 14, 2020
- List 4B Effective Date – **SUSPENDED INDEFINITELY** (HTS# 9903.88.16)

FOUR-YEAR REVIEW - ADDITIONAL TARIFFS

On May 5, 2022, the USTR announced the initiation of the Statutory Four-year Review of Section 301 tariff actions. May 14, 2024, the USTR published its review which left the current tariffs in place and proposed additional tariff increases to certain commodities.

Following an open comment period, the USTR published the list of products with new or increased Section 301 tariffs.

- 25% Additional Duties – Effective September 27, 2024 (HTS#9903.91.01)
- 50% Additional Duties – Effective September 27, 2024 (HTS#9903.91.02)
- 100% Additional Duties – Effective September 27, 2024 (HTS#9903.91.03)
- 25% Additional Duties – Effective January 1, 2025 (HTS#9903.91.04)
- 50% Additional Duties – Effective January 1, 2025 (HTS#9903.91.05)
- 25% Additional Duties – Effective January 1, 2026 (HTS#9903.91.06)
- 50% Additional Duties – Effective January 1, 2026 (HTS#9903.91.07)
- 100% Additional Duties – Effective January 1, 2026 (HTS#9903.91.08)

For a detailed list of products, see Annex A to the September 18, 2024 USTR Notice [here](#).



USTR APPROVED PRODUCT EXCLUSIONS

The USTR's decision to impose additional tariffs on goods from China included a Product Exclusion process. The USTR opened public dockets, for each tranche, for the trade to request product specific exclusions from the additional tariffs. As a result, hundreds of exclusions were granted for all four tranches of Section 301 Tariffs including additional exclusions for products necessary to respond to Covid.

Although most of the exclusions are now expired, there are still certain product exclusions that have been extended to May 31, 2025.

To see the USTR granted product exclusion notices see the USTR website for China Section 301 Tariff Actions and Exclusion Process page [here](#).

Four-Year Review - Exclusions

Solar Manufacturing Equipment - The four-year review implemented 14 temporary exclusions for certain Solar Manufacturing Equipment. Those exclusions were granted retroactive to January 1, 2024, and are currently set to expire on May 31, 2025.

Machinery Exclusions – The four-year review also provided a list of products that are eligible for exclusion requests for certain products used in domestic manufacturing. A list of those products are provided in the September 18, 2024 [Notice of Final Modifications](#); (*Annex E–Subheadings for machinery Exclusion Process*). Instructions for requesting exclusions can be found on the USTR website [here](#). Exclusion requests can be submitted on the USTR Comment Portal, [Public Docket USTR-2004-0020](#)

A compiled list of all available product Exclusions can be found on our website [here](#).

IMPACT TO BUSINESS – CONSIDERATIONS:

- Bond sufficiency – Additional duties may require a bond increase or cause bond insufficiency.
- Pay duties to CBP on ACH / Periodic Monthly Statement (PMS)
- For Exporters – Section 301 duties are eligible for Duty Drawback.



OPTIONS FOR MITIGATING IMPACT OF 301 DUTIES

Product Classification

- Review possibility of reclassification into HTS code outside the scope of Section 301
- Tariff Engineering – redesign of product to fit a different category
- Determine if product can ship as parts or full unit

Country of Origin

- Review production process to identify opportunity to move production
- Review supply chain and define production in each country to determine process can determine alternate country of origin

Product Valuation

- Negotiate with suppliers on pricing
- Evaluate terms of sale to ensure that duty is not paid on non-dutiable charges (discounts, international freight, insurance etc.)
- Explore option of utilizing First Sale Valuation to lower entered value for duty assessment

RESOURCES:

M.E. Dey [China Tariff Tracker](#) – Enter your product Harmonized Tariff Schedule (HTS) to see if your product is subject to the Section 301 Tariffs.

M.E. Dey [Section 301 Exclusion List](#) – See if your product has an available exclusion.

[USTR Website](#) – China Section 301-Tariff Actions and Exclusion Process

[Federal Register](#) – USTR Notice of Section 301 Modifications (Four-Year Review)

Note Regarding Reasonable Care:

If an Importer makes any changes to Product Classification (HTS), Country of Origin, or Value, the company will need to exercise Reasonable Care and maintain documentation that substantiates the legal basis for those changes.