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December 18 Deadline for Section 301 List 2 Exclusion Requests Fast Approaching; Temporary Relief on List 3 Announced

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As discussed in our [prior client alert](#), the United States Trade Representative (USTR) previously announced a formal procedure for interested parties to seek an exclusion from the 25 percent tariffs imposed as a result of the Section 301 investigation on imports from China that are on [List 2](#). This alert is a reminder that the deadline for submitting List 2 exclusion requests – **December 18, 2018** – is fast approaching.

Products on List 2 became subject to additional 25 percent duties on August 23, 2018. If an exclusion request is granted, the exclusion will be: (1) retroactive for entries going back to August 23, 2018; and (2) effective going forward for one year after the publication of the exclusion determination. An effective exclusion request will identify restrictions or meaningful impediments to sourcing the product from China.

As with the exclusion process for List 1, interested parties can formally comment on exclusion requests within 14 days of the date that the exclusion request is posted on www.regulations.gov. If comments in opposition to an exclusion request are filed within the 14-day period, the requesting party can rebut the opposition comments within seven days after the posting of the opposition comments.

List 3 Update

On December 1, 2018, the White House [announced](#) that following a meeting between President Trump and President Xi Jinping of China, the additional tariffs on products included on [List 3](#), previously set to increase from 10 percent to 25 percent on January 1, 2019, would remain at 10 percent temporarily. Both presidents agreed to begin negotiations on changes regarding forced technology transfer, intellectual property protection, non-tariff barriers, cyber intrusions and theft, services, and agriculture.

The parties are aiming to reach an agreement within 90 days of the issuance of the announcement, which will be March 1, 2019. However, if the parties do not come to such an agreement by that date, the tariffs on products imported from China that are on List 3 are likely to be immediately increased to 25 percent.

Drinker Biddle's Customs and International Trade team has extensive experience in assisting clients with Section 301 exclusion requests and issues involving the Section 301 investigation. For further information, contact members of the Customs and International Trade team listed below.

Customs and International Trade Team

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