

Update on China's Retaliatory Tariffs on U.S. Goods and How to File a Request for Exclusion

June 5, 2019

After the U.S. Trade Representative ("USTR") announced an increase in U.S. tariffs on approximately \$200 billion of goods from China from 10% to 25%, China responded by increasing tariffs of 25%, 20% or 10% on approximately \$60 billion of U.S. goods[1]. The increased China tariffs became effective June 1, 2019. China left unchanged its 5% tariffs on U.S. goods previously subject to that tariff rate.

Exclusion Process is Forthcoming

As the U.S. allowed interested parties opportunities to file for exclusions from the U.S. Section 301 tariffs, China similarly affords interested parties an opportunity to apply for exclusions from its increased tariffs. This article briefly summarizes the requirements that must be met to apply for such exclusions.

Who may apply for an exclusion

Domestic and foreign companies in China or trade associations engaged in the import, production or use of related products may apply for exclusions. China is encouraging trade associations to apply for exclusions on behalf of association members. If a trade association submits an exclusion application, then the association's members and other companies may not file an application covering the same classification of products.

Application method and time

A request for an exclusion must be submitted on-line through <http://gszx.mof.gov.cn>. Exclusion requests can be made for the products on the tariff list published on June 16, 2018[2] and August 8, 2018[3] (1st Tariff List) and on August 3, 2018[4] (2nd Tariff List). Automobiles and automotive components will not need to apply for exclusion because they have already been suspended from tariff increases since January 1, 2019.

The request for exclusion for products on the 1st Tariff List will be accepted during the period from June 3, 2019 to July 5, 2019. Applications for exclusion for products on the 2nd Tariff List can be submitted during the period from September 2, 2019 to October 18, 2019.

In determining whether to grant an exclusion, the Customs Tariff Commission of the State Council will consider the following factors:

1. The difficulty in seeking alternative sources of goods;
2. Whether the imposition of additional duties on the particular product causes severe economic harm to the requestor;
3. Whether the imposition of additional duties on the particular product has a major negative structural impact on related industries (including impacts on industry development, technological progress, employment, environmental protection, etc.) or has serious social consequences.

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The applicant is responsible for the accuracy of the information submitted. Information submitted in the application is to be confidential and not be disclosed to third parties without the consent of the applicant, except that the information may be disclosed to Chinese governmental agencies or otherwise as required by applicable Chinese law.

After receiving requests for exclusion, the Chinese Customs Tariff Commission will review the exclusion applications, conduct investigations and studies, and publish lists of granted exclusions. No additional tariffs may be imposed on products on the exclusion lists within one year from the date of implementation of the exclusion lists. Should the conditions for a refund of tariffs be met, the tariffs already paid by the companies will be refunded. The relevant companies are to apply to the Customs Tariff Commission for refunds within six months from the date of publication of the applicable exclusion list.

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[1] Notice of the Custom Tariff Commission [2019] No. 3, issued by the State Council Custom Tariff Commission of the State Council on May 13, 2019.

[2] The products covered by the so-called \$50 billion tariff list can be found [herein](#).

[3] The products covered by the so-called \$16 billion tariff list can be found [herein](#).

[4] Only the products covered by Items 1-4 on the list are eligible for exclusion.