

# Trade Alert: Comment Period for Section 301 Tariffs

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The United States Trade Representative ("USTR") Issues (i) Announcement of Proposed Comment Period for New Section 301 Tariffs for Goods from the People's Republic of China ("China" or "PRC"), (ii) Temporary Exclusion Proposals for Certain Domestic Machinery and (iii) the Scope on the Immediate Temporary Exclusions for Certain Solar Machinery and (iv) certain extensions for existing Sections 301 exclusions.

The DCG International Trade Group issued a Trade Alert on May 16, 2024, summarizing the May 14, 2024, USTR Section 301 Four-Year Review and the President's proposal to significantly increase in Section 301 tariffs on selected "products in strategic sectors" with implementation phases in 2024, 2025 and 2026, and announcing a framework for a Machinery Exclusion process, as well as exclusions for 19 Solar Manufacturing Equipment tariff categories (see: <https://www.dentons.com/en/-/media/7b79e5462d064318bdc465319254cbc0.ashx>).

On May 22, 2024, the USTR announced a 30 days' comment period for these proposed modifications ("Comment Period"). During the Comment Period, interested parties are invited to comment on whether the listed products should or should not be eligible for consideration in the exclusion process, and importantly, at this stage, commenters may also suggest the addition of products not currently listed. The announcement ([notice](#)) offers details and instructions for the public to take advantage of the Comment Period through **June 28, 2024**. It contains three Annexes (A,B and C) with detailed information on the comment submission content and procedures. The Federal Register Notice publication is expected today, on May 28, 2024.

## Comment Period:

The Comment Period opens in the USTR Portal on May 29, 2024, and closes on June 28, 2024 (11:59 pm EST). The Comment Period is under Docket # USTR-2024-0007. In summary, interested parties are encouraged to comment on the following:

## New and Increased Tariffs for Specific Products in "Strategic Sectors"

**Annex A** provides details for significant duty increases (25-100%) for 382 HTSUS subheadings, with an estimated trade value of \$18 Billion (2023 statistics). The tariffs will be implemented in phases, with the initial phase proposed to become effective August 1, 2024. The 2025 and 2026 implementation phases are scheduled to start on January 1 of the applicable year. The USTR invites comments on the following:

- The effectiveness of the proposed modification in obtaining the elimination of, or in counteracting, China's acts, policies, and practices related to technology transfer, intellectual property, and innovation.
- The effects of the proposed modification on the U.S. economy, including consumers.
- The scope of the product description to cover ship-to-shore cranes under subheading 8426.19.00 (transporter cranes, gantry cranes and bridge cranes).
- With respect to facemasks, medical gloves, syringes and needles, whether the tariff rates should be higher than the proposed rates.
- With respect to facemasks, whether additional statistical reporting codes under tariff subheading 6307.90.98 should be included.
- Whether the tariff subheadings identified for each product and sector adequately cover the products and sectors included in the President's direction to the U.S. Trade Representative.

### **USTR Exclusion Process for Machinery Used in Domestic Industry (Annex B) and Solar Manufacturing Equipment (Annex C)**

Exclusions granted through this process will be effective through May 31, 2025.

**Annexes B and C: Annex B** provides subheadings for certain machinery used in the domestic manufacturing industry, as described in HTSUS Chapters 84 and 85, that are eligible for the temporary exclusion. It is notable that Annex B currently does not include subheadings for parts of machinery.

**Annex C** provides for 19 temporary exclusions for solar manufacturing equipment.

The USTR posted questions on May 24, 2024, that should be addressed by interested parties in the Docket Comments<sup>1</sup>. In summary, the Docket Comments elicit the submitters information, including number of employees in the United States and provides a structure for comments by Section for each Annex (A-C). The posted questions, which may be amended in the Docket, focus on the submitter's views on the proposed modifications by HTS classification products. The Exclusion Process for Domestic Machinery is set forth in Section B and elicits comments both for and against the proposed exclusions. The Exclusion Process for Solar Manufacturing Equipment is set forth in Annex C and similarly, elicits comments on the scope of the exclusion and amendments to the product descriptions. This is an opportunity for interested parties to make a case for the addition of Annexes B and C products used in domestic manufacturing. Each HTS classification requires a separate comment submission.

### **DCG International Trade Team Recommendations**

USTR's proposed modifications largely maintain the current Section 301 tariff regime while proposing certain strategic changes to specific product categories targeted by China, or in sectors where significant US investments are a priority for the current administration. Importers should monitor these fast-changing developments to navigate these changes effectively.

The Comment Period will provide a limited window of opportunity for interested parties to provide support for or against the proposed tariffs. We strongly suggest importers to take advantage of this comment opportunity in order to preserve the proposed temporary exclusions and/or provide additional products to the USTR exclusion process. Companies engaged in domestic manufacturing should also consider participating in the public comment process to

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<sup>1</sup> <https://comments.ustr.gov/s/#:~:text=Proposed%20Modifications%20and%20Machinery%20Exclusion%20Process%20Docket%20Questions>

support the proposed exclusion of the manufacturing equipment used or manufactured by them in the United States. The DCG International Trade Team continues to closely monitor these actions and is available to answer questions and assist with these processes.

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