

# Trade Alert: USTR Announces Procedures for Exclusion Requests for Certain Machinery Used in Domestic Manufacturing

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On September 18, 2024, as part of the ongoing four-year statutory review, the U.S. Trade Representative (“USTR”) published in the Federal Register (“**September 18 Notice**”) certain adjustments to the Section 301 tariffs, which included (1) the September 27, 2024 effective date for tariff increases for the 14 specified product groups intended to target “certain products of China in strategic sectors,” including lithium-ion batteries, electric vehicles, solar cells, steel and aluminum products, semi-conductors, certain medical equipment and ship to shore cranes; (2) retroactive exclusions for certain solar panel manufacturing equipment; and (3) a proposed temporary exclusion process for certain machinery used in domestic manufacturing that would be implemented at a later date. For additional information, see Dentons’ recent Client Alert on the Finalization of Section 301 Modification of Four Year Statutory Review.

On October 16, 2024, the USTR published in the Federal Register procedures for the temporary exclusion process for certain machinery used in domestic machinery and announced the Docket opening of October 15, 2024.

The machinery for temporary exclusion consideration remains unchanged from the Annex E in the September 18 Notice. As reference, the September 18 Notice added five additional subheadings to this group but did not add subheadings outside of Chapters 84 and 85 or subheadings that specify parts, accessories, consumables, or general equipment. The additional five subheadings are as follows:

- 8421.21.00: Machinery and apparatus for filtering or purifying water
- 8421.29.00: Filtering or purifying machinery and apparatus for liquids, nesoi (not elsewhere specified or included)
- 8421.39.01: Filtering or purifying machinery and apparatus for gases, other than intake air filters or catalytic convertor for internal combustion engines
- 8428.70.00: Industrial robots
- 8443.19.30: Printing machinery, nesoi

### Temporary Exclusion Process Time Period:

- The USTR Portal (<http://comments.ustr.gov>) opened October 15, 2024, and will close March 31, 2025 (Docket # USTR-2024-0020).
- Responses in support or opposition to exclusion submissions must be submitted within 30 days of the posted exclusion in the USTR Portal. Replies/rebuttals to responses must be submitted 15 days after response posting or 15 days after the 30-day response period, whichever is later.
- Approved temporary exclusions will be published in the Federal Register. There are discussions about potential retroactive application of refunds, but this is yet to be confirmed in the Federal Register.
- Effective date of the approved exclusion will be the Federal Register publication date.
- Approved exclusions will remain in effect until May 31, 2025.
- USTR will process exclusion requests on a rolling basis and will periodically announce decisions in the Federal Register.

### Required Information for Eligible Products Exclusion Submission (September 18 Notice Annex E):

Each exclusion request must be specific to a particular product with detailed product description, rationale for the exclusion submission (US availability and other factors detailed below) and whether the exclusion would undermine the objective of the Section 301 investigation. Exclusion submissions will require the following:

- Imported machinery 10-digit HTS subheading.
- Detailed description of imported machinery, including (1) material composition, dimensions, weights and other physical characteristics; (2) application/functioning of manufacturing equipment; (3) principal use; (4) unit value; (5) unique physical features that differentiate classification from other HTS subheadings; and (6) available CBP rulings, CIT rulings and import documentation.
- Anti-Dumping and/or Countervailing Duty applicability.
- Description of equipment use in domestic manufacturing and how it is used in a specific manufacturing sector.
- If applicable, documentation substantiating grant funding/application to a federal investment program related to domestic manufacturing (i.e. Inflation Reduction Act (IRA), CHIPS and Science Act, Build America Buy America (BABA), Rural Energy for America Program (REAP)).
- Machinery, or comparable machinery, availability from US sources or countries outside of China.
- Whether requesting party has attempted to source within the US or from countries other than China.
- Whether the requesting party purchased the machinery from a US source or third party outside of China in the last five years.
- If the requesting party has sourced within the US or third country within the past five years, the rationale for why this was discontinued.
- Whether the machinery is strategically important or related to "Made in China 2025" or other Chinese industrial programs.

## Prior DCG Alerts:

The Dentons Cohen & Grigsby P.C. May 16, May 24 and September 30, 2024 Client Trade alerts provide further background on USTR Four Year Review and prior comment periods.

### (September 30, 2024) Finalization of Section 301 Modification of Four Year Statutory Review:

<https://www.dentons.com/en/-/media/7274f08846474f5889b1d8020a8605d7.ashx>

### (May 28, 2024) Comment Period for Section 301 Tariffs:

<https://www.dentons.com/en/-/media/862dbec4876040048d10094bb938b5cc.ashx>

### (May 16, 2024) Trade Alert: USTR Section 301 Tariff Increases:

<https://www.dentons.com/en/-/media/7b79e5462d064318bdc465319254cbc0.ashx>

*This alert is a brief summary. We continue to monitor the USTR announcements closely and recommend consulting the DCG International Trade Group for detailed advice tailored to your situation. If you have questions about any of the documents referenced in this alert or need further information or assistance, we invite you to contact a member of the DCG International Trade Group for assistance.*

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