



Biden Administration's Approach to China Trade: Tariff Exclusions Version 2.0

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Ambassador Katherine Tai has announced the Biden administration's specific approaches to China Trade, including the United States Trade Representative's (USTR) commitment to ensure that American interests are served by our current agreements with China, which could entail adding additional exclusion processes, as warranted.

In August 2017, USTR initiated an investigation into unlawful technology transfers from the United States to the People's Republic of China. Based on a full review of the testimony, submissions and other evidence that China was violating United States law through some of its industry practices, an investigation was launched. During the investigation, the United States Government's interagency, as well as USTR, determined that there was substantial need for an investigation and remedial action to address China's trade policies.

As a result, USTR initiated an investigation into Chinese manufactured products that were imported into the United States. During this process, USTR created an "exclusion process" to separate those products that were not contributing to the underlying trade dispute. This exclusion process allowed certain United States importers to exclude their imported products from the investigation and additional tariffs. This exclusion process allowed many United States companies to continue sourcing hard-to-find products from Chinese producers, while seeking additional international suppliers. The exclusions were only granted for a limited period of time and have largely expired.

With the change in presidential administrations, combined with a renewed view towards addressing trade concerns with China, the Biden administration is revising the need for an exclusion process, among other trade tactics. Ambassador Katherine Tai announced on October 4, 2021 that USTR would pursue key approaches to addressing trade with China. The approaches would be:

- ***Working to Ensure China's Performance Under the Phase 1 Agreement***
 - Working to enforce China's commitments that were made to benefit American industries, especially agriculture.
- ***Reinstating a Targeted Tariff Exclusion Process***
 - Ensuring existing enforcement structure optimally serves American economic interests, especially small and medium businesses; and
 - Continually evaluating the potential for additional exclusion processes, as warranted.
- ***Concerned with Trade Practices not Addressed in Phase 1 Agreement***
 - Raising broader concerns with China about their state-centered & non-market trade practices.
- ***Working with Trading Partners and Allies***
 - Relying on existing and newly formed trading relationships to rebalance the impact of China trade policies on the greater global trade; and
 - Using the global trade partnerships to help shape rules for fair trade in 21st Century.

While the exclusion process is unfolding, small and mid-size businesses should prepare to provide comments and insights to the USTR and possibly others in the federal government and Congress about their business and impacts the China tariffs have had on their operations. USTR is issuing a Federal Register notice that will allow for public comments to be filed from October 12 to December 1, 2021.