



[Billing Code 3290-F9]

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Modification of Section 301 Action: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of modification of action.

SUMMARY: In accordance with the direction of the President, the U.S. Trade Representative (Trade Representative) has determined to modify the action being taken in this Section 301 investigation by postponing the date on which the rate of the additional duties will increase to 25 percent for the products of China covered by the September 2018 action in this investigation. As set out in this notice, the rate of additional duty for the products covered by the September 2018 action will increase to 25 percent on March 2, 2019.

DATES: On March 2, 2019 at 12:01 am Eastern Standard Time, the rate of additional duty will increase to 25 percent with respect to products covered by the September 2018 action.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, contact Assistant General Counsels Arthur Tsao or Megan Grimball, or Director of Industrial Goods Justin Hoffmann at (202) 395-5725. For questions on customs classification or implementation of additional duties on products covered by the September 2018 action, contact traderemedy@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

A. September 2018 Action

For background on the proceedings in this investigation, please see the prior notices issued in the investigation, including 82 FR 40213 (August 23, 2017), 83 FR 14906 (April 6, 2018), 83 FR 28710 (June 20, 2018), 83 FR 33608 (July 17, 2018), 83 FR 38760 (August 7, 2018), and 83 FR 40823 (August 16, 2018).

In a notice published on September 21, 2018 (83 FR 47974), the Trade Representative, at the direction of the President, announced a determination to modify the action being taken in the investigation by imposing additional duties on products of China with an annual trade value of approximately \$200 billion. The rate of additional duties initially was 10 percent. Those additional duties were effective starting on September 24, 2018, and currently are in effect. Under Annex B of the September 21 notice, the rate of additional duty was set to increase to 25 percent on January 1, 2019. In the September 21 notice, the Trade Representative stated that he would continue to consider the actions taken in this investigation, and if further modifications were appropriate, he would take into account the extensive public comments and testimony previously provided in response to the notices published on July 17, 2018 (83 FR 33608) and August 7, 2018 (83 FR 38760).

On September 28, 2018 (83 FR 49153), the Trade Representative issued a conforming amendment and modification of the September 21 action. We refer to the September 21 action, as modified by the September 28 notice, as the ‘September 2018 action.’

B. Determination to Modify September 2018 Action

The United States is engaging with China with the goal of obtaining the elimination of the acts, policies, and practices covered in the investigation. The leaders of the United States and China met on December 1, 2018, and agreed to hold negotiations on a range of issues, including those covered in this Section 301 investigation. *See* <https://www.whitehouse.gov/briefings-statements/statement-press-secretary-regarding-presidents-working-dinner-china/> (the ‘December 1 Statement’). The December 1 Statement notes that the President “agreed that on January 1, 2019, he will leave the tariffs on \$200 billion worth of product at the 10% rate, and not raise it to 25% at this time. . . Both parties agree that they will endeavor to have this transaction completed within the next 90 days. If at the end of this period of time, the parties are unable to reach an agreement, the 10% tariffs will be raised to 25%.” The end of the 90-day period mentioned in the December 1 Statement is March 1, 2018.

Section 301(b) of the Trade Act of 1974, as amended (Trade Act), requires the Trade Representative to “take all appropriate and feasible action authorized under [Section 301(c)] to obtain the elimination of [the] act, policy, or practice [under investigation].” Section 307(a)(1) of the Trade Act provides, in relevant part, that the Trade Representative “may modify or terminate any action, subject to the specific direction, if any, of the President with respect to such action, that is being taken under Section 301 if . . . the burden or restriction on United States commerce . . . of the acts, policies, and practices, that are the subject of such action has increased or decreased, or such action is being taken under Section [301(b)] of this title and is no longer appropriate.” In light of the outcome of the December 1 meeting, and at the direction of the President, the Trade Representative has determined that it no longer is appropriate for

the rate of duty under the September 2018 action to increase to 25 percent on January 1, 2019, and that the rate of duty under the September 2018 action instead should increase to 25 percent on March 2, 2019 (which is the day following the end of the 90-day period mentioned in the December 1 Statement).

The Trade Representative's decision to modify the September 2018 action takes into account the extensive public comments and testimony, as well as advice from advisory committees, concerning the actions proposed in the notices issued in advance of the September 2018 action (83 FR 33608 and 83 FR 38760). Those notices, among other things, requested comments on whether the rate of additional duties should be 10 percent or 25 percent. The Trade Representative's decision also reflects the advice of the interagency Section 301 Committee.

As noted above, Annex B to the September 21 notice increased the rate of additional duties for the September 2018 action to 25 percent on January 1, 2019. The Annex to this notice supersedes Annex B to the September 21 notice, and provides that the rate of additional duties for the September 2018 action will increase to 25 percent on March 2, 2019.

Annex

(Superseding Annex B of the Notice Published at 83 FR 47974)

Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 am Eastern Standard Time on March 2, 2019, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified:

1. by deleting "10%" in the Rates of Duty 1-General column of headings 9903.88.03 and 9903.88.04, and inserting "25%" in lieu thereof; and
2. by deleting "10 percent" each place that it appears in U.S. Notes 20(e) and 20(g) to subchapter III of chapter 99 and inserting "25 percent" in lieu thereof.

Robert Lighthizer

United States Trade Representative.

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