



[Billing Code 3290-F0]

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Product Exclusion Extensions: 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 product exclusion extensions.

SUMMARY: Effective July 6, 2018, the U.S. Trade Representative imposed additional duties on goods of China with an annual trade value of approximately \$34 billion as part of the action in the Section 301 investigation of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation. The U.S. Trade Representative initiated the exclusion process in July 2018 and, to date, has granted 10 sets of exclusions under the \$34 billion action. The fourth set of exclusions was published in May 2019 and will expire in May 2020. On March 12, 2020, the U.S. Trade Representative established a process for the public to comment on whether to extend particular exclusions granted in May 2019 for up to 12 months. This notice announces the U.S. Trade Representative's determination to extend certain exclusions until December 31, 2020.

DATES: The product exclusion extensions announced in this notice will apply as of May 14, 2020, and extend until December 31, 2020. U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

FOR FURTHER INFORMATION CONTACT: For general questions about this notice, contact Assistant General Counsels Philip Butler or Benjamin Allen, or Director of Industrial Goods Justin Hoffmann at (202) 395-5725. For specific questions on

customs classification or implementation of the product exclusions identified in the Annex to this notice, contact traderemedymail@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

A. Background

For background on the proceedings in this investigation, please see prior notices including: 82 FR 40213 (August 23, 2017), 83 FR 14906 (April 6, 2018), 83 FR 28710 (June 20, 2018), 83 FR 32181 (July 11, 2018), 83 FR 67463 (December 28, 2018), 84 FR 11152 (March 25, 2019), 84 FR 16310 (April 18, 2019), 84 FR 21389 (May 14, 2019), 84 FR 25895 (June 4, 2019), 84 FR 32821 (July 9, 2019), 84 FR 43304 (August 20, 2019), 84 FR 46212 (September 3, 2019), 84 FR 49564 (September 20, 2019), 84 FR 52567 (October 2, 2019), 84 FR 58427 (October 31, 2019), 84 FR 70616 (December 23, 2019), 84 FR 72102 (December 30, 2019), 85 FR 6687 (February 5, 2020), 85 FR 12373 (March 2, 2020), 85 FR 16181 (March 20, 2020), and 85 FR 24081 (April 30, 2020).

Effective July 6, 2018, the U.S. Trade Representative imposed additional 25 percent duties on goods of China classified in 818 8-digit subheadings of the Harmonized Tariff Schedule of the United States (HTSUS), with an approximate annual trade value of \$34 billion. *See* 83 FR 28710 (the \$34 billion action). The U.S. Trade Representative's determination included a decision to establish a process by which U.S. stakeholders could request exclusion of particular products classified within an 8-digit HTSUS subheading covered by the \$34 billion action from the additional duties. The U.S. Trade Representative issued a notice setting out the process for the product exclusions and opened a public docket. *See* 83 FR 32181 (the July 11 notice).

In May 2019, the U.S. Trade Representative granted a set of exclusion requests, which expire on May 14, 2020. *See* 84 FR 21389 (the May 14 notice). On March 2, 2020, the U.S. Trade Representative invited the public to comment on whether to extend by up to 12 months, particular exclusions granted in the May 14 notice. *See* 85 FR 12373 (the March 2 notice).

Under the March 2 notice, commenters were asked to address whether the particular product and/or a comparable product is available from sources in the United States and/or in third countries; any changes in the global supply chain since July 2018 with respect to the particular product, or any other relevant industry developments; and efforts, if any, importers or U.S. purchasers have undertaken since July 2018 to source the product from the United States or third countries.

In addition, commenters who were importers and/or purchasers of the products covered by an exclusion were asked to provide information regarding their efforts since July 2018 to source the product from the United States or third countries; the value and quantity of the Chinese-origin product covered by the specific exclusion request purchased in 2018, the first half of 2018, and the first half of 2019, and whether these purchases are from a related company; whether Chinese suppliers have lowered their prices for products covered by the exclusion following the imposition of duties; the value and quantity of the product covered by the exclusion purchased from domestic and third country sources in 2018, the first half of 2018 and the first half of 2019; the commenter's gross revenue for 2018, the first half of 2018, and the first half of 2019; whether the Chinese-origin product of concern is sold as a final product or as an input; whether the imposition of duties on the products covered by the exclusion will result in severe

economic harm to the commenter or other U.S. interests; and any additional information in support or in opposition of the extending the exclusion.

The March 2 notice required the submission of comments no later than April 12, 2020.

B. Determination to Extend Certain Exclusions

Based on evaluation of the factors set out in the July 11 notice and March 2 notice, which are summarized above, pursuant to sections 301(b), 301(c), and 307(a) of the Trade Act of 1974, as amended, and in accordance with the advice of the interagency Section 301 Committee, the U.S. Trade Representative has determined to extend certain product exclusions covered by the May 14 notice, as set out in the Annex to this notice.

The March 2 notice provided that the U.S. Trade Representative would consider extensions of up to 12 months. In light of the cumulative effect of current and possible future exclusions or extensions of exclusions on the effectiveness of the action taken in this investigation, the U.S. Trade Representative has determined to extend the exclusions in the Annex to this notice for less than 12 months -- until December 31, 2020. To date, the U.S. Trade Representative has granted more than 6,200 exclusion requests, has extended some of these exclusions, and may consider further extensions of exclusions. Furthermore, more than 8,600 requests are pending on the products covered by the action taken on August 20, 2019. The U.S. Trade Representative will take account of the cumulative effect of exclusions in considering the possible further extension of the exclusions covered by this notice, as well as possible extensions of exclusions of other products covered by the action in this investigation. The U.S. Trade Representative's

determination also takes into account advice from advisory committees and any public comments concerning extension of the pertinent exclusion.

In accordance with the July 11 notice, the exclusions are available for any product that meets the description in the Annex, regardless of whether the importer filed an exclusion request. Further, the scope of each exclusion is governed by the scope of the 10-digit HTSUS headings and product descriptions in the Annex to this notice, and not by the product descriptions set out in any particular request for exclusion.

As set out in the Annex, the U.S. Trade Representative has determined to extend, until December 31, 2020, the following exclusions granted under the May 14, 2019 notice under heading 9903.88.08 and under U.S. note 20(k) to subchapter III of chapter 99 of the HTSUS: (4), (5), (8), (11), (18), (19), (21), (22), (23), (24), (25), (38), and (39).

ANNEX

Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on July 6, 2018, and before December 31, 2020, the additional duties provided for in heading 9903.88.01 shall not apply to products which are provided for in heading 9903.88.08 and U.S. notes 20(k)(4), 20(k)(5), 20(k)(8), 20(k)(11), 20(k)(18), 20(k)(19), 20(k)(21), 20(k)(22), 20(k)(23), 20(k)(24), 20(k)(25), 20(k)(38) and 20(k)(39) to subchapter III of chapter 99 of the HTSUS, as follows:

(4) 8481.10.0090

(5) 8483.50.9040

(8) Filtering or purifying machinery or apparatus of a kind used for waste water treatment (described in statistical reporting number 8421.21.0000)

(11) Air purification equipment, electrically powered, weighing less than 36 kg (described in statistical reporting number 8421.39.8015)

(18) Armatures designed for use in hydraulic solenoid valves (described in statistical reporting number 8481.90.9040)

(19) C-poles, of steel, designed for use in hydraulic solenoid control valves (described in statistical reporting number 8481.90.9040)

- (21) Metering spools, of aluminum, designed for use in hydraulic solenoid control valves (described in statistical reporting number 8481.90.9040)
- (22) Metering spools, of steel, designed for use in hydraulic solenoid control valves (described in statistical reporting number 8481.90.9040)
- (23) Poles, of steel, designed for use in hydraulic solenoid control valves (described in statistical reporting number 8481.90.9040)
- (24) Push pins, of steel, designed for use in hydraulic solenoid control valves (described in statistical reporting number 8481.90.9040)
- (25) Retainers, of steel, designed for use in hydraulic solenoid control valves (described in statistical reporting number 8481.90.9040)
- (38) Stereoscopic microscopes, not provided with a means for photographing the image, valued not over \$500 per unit (described in statistical reporting number 9011.10.8000)
- (39) Adapter rings, tubes and extension sleeves, stands and arm assemblies, stages and gliding tables, eyeguards and focusing racks, all the foregoing designed for use with compound optical microscopes (described in statistical reporting number 9011.90.0000)

Joseph Barloon,
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