OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE


AGENCY: Office of the United States Trade Representative.

ACTION: Notice of product exclusions.

SUMMARY: In September 2018, the U.S. Trade Representative imposed additional duties on goods of China with an annual trade value of approximately $200 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 a product exclusion process in June 2019, and interested persons have submitted requests for the exclusion of specific products. This notice announces the U.S. Trade Representative’s determination to grant certain exclusion requests, as specified in the Annex to this notice, and corrects technical errors in previously announced exclusions.

DATES: The product exclusions announced in this notice will apply as of September 24, 2018, the effective date of the $200 billion action, and extend to August 7, 2020. The amendments announced in this notice are retroactive to the date that the original exclusions were published.

FOR FURTHER INFORMATION CONTACT: For general questions about this notice, contact Assistant General Counsels Philip Butler or Megan Grimball, 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 traderemedy@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

A. Background


Effective September 24, 2018, the U.S. Trade Representative imposed additional 10 percent *ad valorem* duties on goods of China classified in 5,757 full and partial subheadings of the Harmonized Tariff Schedule of the United States (HTSUS), with an approximate annual trade value of $200 billion. See 83 FR 47974, as modified by 83 FR 49153. In May 2019, the U.S. Trade Representative increased the additional duty to 25 percent. See 84 FR 20459. On June 24, 2019, the U.S. Trade Representative established a process by which stakeholders could request exclusion of particular products classified
within an 8-digit HTSUS subheading covered by the $200 billion action from the additional duties. See 84 FR 29576 (the June 24 notice).

Under the June 24 notice, requests for exclusion had to identify the product subject to the request in terms of the physical characteristics that distinguish the product from other products within the relevant 8-digit HTSUS subheading covered by the $200 billion action. Requestors also had to provide the 10-digit HTSUS subheading most applicable to the particular product requested for exclusion, and could submit information on the ability of U.S. Customs and Border Protection to administer the requested exclusion. Requestors were asked to provide the quantity and value of the Chinese-origin product that the requestor purchased in the last three years. With regard to the rationale for the requested exclusion, requests had to address the following factors:

- Whether the particular product is available only from China and specifically whether the particular product and/or a comparable product is available from sources in the United States and/or third countries.
- Whether the imposition of additional duties on the particular product would cause severe economic harm to the requestor or other U.S. interests.
- Whether the particular product is strategically important or related to “Made in China 2025” or other Chinese industrial programs.

The June 24 notice stated that the U.S. Trade Representative would take into account whether an exclusion would undermine the objective of the Section 301 investigation.

The June 24 notice required submission of requests for exclusion from the $200 billion action no later than September 30, 2019, and noted that the U.S. Trade Representative periodically would announce decisions. In August 2019, the U.S. Trade
Representative granted an initial set of exclusion requests. See 84 FR 38717. The U.S. Trade Representative granted additional exclusions in September, October, November and December 2019, and January, February, March, April and May 2020. See 84 FR 49591, 84 FR 57803, 84 FR 61674, 84 FR 65882, 84 FR 69012, 85 FR 549, 85 FR 6674, 85 FR 9921, 85 FR 15015, 85 FR 17158, 85 FR 23122, and 85 FR 27489. The Office of the United States Trade Representative regularly updates the status of each pending request on the Exclusions Portal at

B. Determination to Grant Certain Exclusions

Based on evaluation of the factors set forth in the June 24 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 grant the product exclusions set forth in the Annex to this notice. The U.S. Trade Representative’s determination also takes into account advice from advisory committees and any public comments on the pertinent exclusion requests.

As set forth in the Annex, the exclusions are reflected in seventeen 10-digit HTSUS subheadings, which respond to 33 separate exclusion requests, and 61 specially prepared product descriptions, which respond to 70 separate exclusion requests.

In accordance with the June 24 notice, the exclusions are available for any product that meets the description in the Annex, regardless of whether the importer benefitting from the product exclusion filed an exclusion request. Further, the scope of
each exclusion is governed by the scope of the product descriptions in the Annex, and not by the product descriptions found in any particular request for exclusion.

Paragraph A, subparagraphs (3)-(7) of the Annex contain conforming amendments to the HTSUS reflecting the modifications made by the Annex.


As stated in the September 20, 2019 notice, the exclusions will apply from September 24, 2018, to August 7, 2020. U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

The U.S. Trade Representative will continue to issue determinations on pending requests on a periodic basis.

Joseph Barloon
General Counsel
Office of the United States Trade Representative.
ANNEX

A. 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 September 24, 2018, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS) is modified:

1. by inserting the following new heading 9903.88.48 in numerical sequence, with the material in the new heading inserted in the columns of the HTSUS labeled “Heading/Subheading”, “Article Description”, and “Rates of Duty 1-General”, respectively:

<table>
<thead>
<tr>
<th>Heading/Subheading</th>
<th>Article Description</th>
<th>Rates of Duty</th>
</tr>
</thead>
<tbody>
<tr>
<td>“9903.88.48”</td>
<td>Articles the product of China, as provided for in U.S. note 20(aaa) to this subchapter, each covered by an exclusion granted by the U.S. Trade Representative . . . . . . . . . . . . . . . . . . . . .</td>
<td>The duty provided in the applicable subheading</td>
</tr>
</tbody>
</table>

2. by inserting the following new U.S. note 20(aaa) to subchapter III of chapter 99 in numerical sequence:

“(aaa) The U.S. Trade Representative determined to establish a process by which particular products classified in heading 9903.88.03 and provided for in U.S. notes 20(e) and (f) to this subchapter could be excluded from the additional duties imposed by heading 9903.88.03, and by which particular products classified in heading 9903.88.04 and provided for in U.S. note 20(g) to this subchapter could be excluded from the additional duties imposed by heading 9903.88.04. See 83 Fed. Reg. 47974 (September 21, 2018) and 84 Fed. Reg. 29576 (June 24, 2019). Pursuant to the product exclusion process, the U.S. Trade Representative has determined that the additional duties provided for in heading 9903.88.03 or in heading 9903.88.04 shall not apply to the following particular products, which are provided for in the enumerated statistical reporting numbers:

1) 0713.33.1040
2) 0713.50.1000
3) 1207.70.0020
4) 1207.70.0040
5) 1209.30.0090
6) 1209.91.6010
7) 1209.91.8010
8) 1209.91.8020
9) 1209.91.8040
10) 1209.91.8050
11) 1209.91.8060
12) 1209.91.8070
13) 2916.19.1000
14) 5603.14.9090
15) 5603.92.0090
16) 5603.93.0090
17) 9403.70.4002
18) Freeze-dried or frozen bloodworms (Chironomidae), of a kind used as pet feed, put up for retail sale (described in statistical reporting number 0511.91.0090)
19) Freeze-dried or frozen brine shrimp (Artemia franciscana), whole, of a kind used as pet feed, put up for retail sale (described in statistical reporting number 0511.91.0090)
20) Freeze-dried shrimp (Penaeus spp.), whole, of a kind used as pet feed, put up for retail sale (described in statistical reporting number 0511.91.0090)
21) Freeze-dried tubifex worms, whole, of a kind used as pet feed, put up for retail sale in induction-sealed plastic cans each with a net weight of at least 23 g but not more than 43 g (described in statistical reporting number 0511.91.0090)
22) Dried green seaweed (Porphyra spp.), of a kind used as pet feed, put up for retail sale in containers comprising 24 pre-cut sheets packaged in resealable plastic bags each with a net weight of 23 g (described in statistical reporting number 1212.29.0000)
23) Sodium permanganate (CAS No. 10101-50-5) in 40 percent aqueous solution (described in statistical reporting number 2841.69.0010)
24) Boron carbide (CAS No. 12069-32-8) in powder form (described in statistical reporting number 2849.90.1000)
25) Children’s acrylic paint sets, each comprising either 6, 12 or 24 jars or pots of different colors of paints, each jar or pot containing at least 5 ml but not more than 23 ml, with a paint brush, such sets put up for retail sale (described in statistical reporting number 3213.10.0000)
26) Children’s rock painting kits, each comprising various colors of acrylic paints, a paint brush and rocks, each group of rocks weighing at least 900 g but not more than 1,400 g, and accessories including but not limited to swirl sticks or transfer sheets (described in statistical reporting number 3213.10.0000)
27) Children’s washable tempera paint sets, each comprising 5 pots of different colors of paints, each pot containing 5 ml, presented with or without a paint brush and put up for retail sale (described in statistical reporting number 3213.10.0000)
28) Organic surface-active liquid for washing the skin, not containing any aromatic or modified aromatic surface-active agent, put up for retail sale in a bottle of plastics with pump-action top, each bottle measuring not more than 17 cm in width, not more than 27 cm in height and not more than 6.5 cm in length and with a net weight of not more than 0.5 kg (described in statistical reporting number 3401.30.5000)

29) Toilet seal rings of artificial or prepared waxes (other than polyethylene glycol waxes, waxes containing bleached beeswax or chemically modified lignite waxes) (described in statistical reporting number 3404.90.5150)

30) Artificial graphite, in powder or flake form, for manufacturing into the lithium-ion anode component of batteries (described in statistical reporting number 3801.10.5000)

31) Mixtures of ammonium ethyl carbamoylphosphonate (Fosamine-ammonium) (CAS No. 25954-13-6) and application adjuvants (described in statistical reporting number 3808.93.5050)

32) Refrigerant gas R-421B, comprising mixtures containing at least 83 percent but not more than 87 percent by weight of pentafluoroethane, at least 13 percent but not more than 17 percent by weight of 1,1,2,2-tetrafluoroethane, and at least 0.5 percent but not more than 2 percent by weight of lubricant (described in statistical reporting number 3824.78.0020)

33) Silicon monoxide (SiO) (CAS No. 10097-28-6) in powder form (described in statistical reporting number 3824.99.9297)

34) Washing machine tub seals of acrylonitrile-butadiene rubber ("NBR"), each bottom seal incorporating a radial ball bearing and locking pin and each top seal presented with a metal shroud and grease installed (described in statistical reporting number 4016.93.5020)

35) Grommets, of acrylonitrile-butadiene rubber ("NBR"), each with an inner diameter of not more than 6 cm and an outer diameter of not more than 8 cm, each weighing not more than 10 g, of a kind used in automotive fuel assemblies (described in statistical reporting number 4016.99.6050)

36) Handbags with outer surface of sheeting of plastics, each measuring not more than 35 cm in width, not more than 20.5 cm in height and not more than 30 cm in length (described in statistical reporting number 4202.22.1500)

37) Coin purses with outer surface of laminated plastics, each measuring not more than 8 cm in length, not more than 8 cm in height, and not more than 3 cm in width (described in statistical reporting number 4202.32.1000)

38) Garment travel bags of man-made fibers, each weighing at least 0.9 kg but not more than 1.9 kg, measuring at least 100 cm but not more than 170 cm in length, with zippered compartments, with handles to carry in a folded condition and a hanger clamp (described in statistical reporting number 4202.92.3131)
39) Flooring planks, each measuring at least 121 cm but not more than 122 cm in length and at least 12.7 cm but not more than 19.7 cm in width (described in statistical reporting number 4411.13.2000)

40) Boxes of wood, each measuring not more than 30 cm by 13 cm by 20 cm, with hinged top, handle of base metals and 2 clasps (described in statistical reporting number 4420.90.8000)

41) Wood dowel pins, plain, other than coniferous, of birch (Betula spp.), each measuring at least 19.5 cm but not more than 38.5 cm in length and at least 4.7 mm but not more than 8 mm in thickness (described in statistical reporting number 4421.99.1500)

42) Polypropylene roofing underlayment (described in statistical reporting number 4602.90.0000)

43) Diaries, bound, each containing at least 40 sheets but not more than 60 sheets of paper, each presented in a kit also containing a pen and stickers (described in statistical reporting number 4820.10.2010)

44) Albums for samples or collections, each containing at least 15 pages but not more than 20 pages, put up for retail sale in kits, each also containing cards and envelopes, a glue stick, a stencil, a pair of scissors, stamps, sticker sheets, sparkling gemstones, markers and pens (described in statistical reporting number 4820.50.0000)

45) Rugs of hand-knotted pile, of nylon and polypropylene, measuring at least 1.2 m² (described in statistical reporting number 5701.90.1010)

46) Prepared painting canvas panel boards, each board containing by weight 50 percent canvas, other than of canvas man-made fibers, and 50 percent paper, in sizes measuring at least 9 cm but not more than 29 cm in width, at least 14 cm but not more than 37 cm in height and at least 0.6 cm but not more than 3.5 cm in thickness, put up for retail sale in kits each containing not more than 12 boards (described in statistical reporting number 5901.90.4000)

47) Equipment for scaffolding, comprising galvanized steel frames, posts, planks, bay braces, ledgers, components and accessories, for assembly in cuplock configurations measuring at least 10 cm but not more than 3.3 m in height and at least 4 cm but not more than 8.8 m in width, weighing not more than 91 kg, with a load capacity not more than 2,750 kg (described in statistical reporting number 7308.40.0000)

48) Equipment for scaffolding, comprising powder coated or galvanized welded tubular steel frames, braces, guard rail systems, components and accessories, the foregoing for assembly into frame and brace configurations measuring at least 10 cm but not more than 3.3 m in height and at least 4 cm but not more than 8.8 m in width, weighing not more than 91 kg, with a load capacity not more than 2,750 kg (described in statistical reporting number 7308.40.0000)

49) Drums and barrels, of stainless steel, presented empty, each with a capacity of at least 50 liters but not more than 60 liters and weighing at least 12 kg but not more than 15 kg (described in statistical reporting number 7310.10.0010)
50) Containers of stainless steel, of circular cross section, closed by soldering, each with a volume capacity at least 11.4 liters but not more than 26.6 liters, of a kind used for the conveyance of beer (described in statistical reporting number 7310.21.0025)

51) Screws of stainless steel, having shanks or threads with a diameter of at least 6 mm, self-threading with Philips head (described in statistical reporting number 7318.15.8082)

52) Portable grills of iron or steel designed for use with both charcoal and propane as fuels, each presented with a porcelain-coated cast iron cooking grid, a charcoal tray, an air damper, a temperature gauge and independently controlled stainless steel burners (described in statistical reporting number 7321.11.1060)

53) Stainless steel cover assemblies with side shields, comprising parts of stoves and ranges, with cast aluminum front section and black textured finish, each weighing not more than 2.8 kg and measuring at least 35 cm in depth, at least 47 cm in width, and at least 4 cm in height (described in statistical reporting number 7321.90.1000)

54) Stainless steel drop-in cooktop assemblies comprising parts of stoves and ranges, with two burners, each weighing not more than 1.2 kg and measuring at least 33 cm in depth, at least 45 cm in width, and at least 2 cm in height (described in statistical reporting number 7321.90.1000)

55) Steel drop-in burner box assemblies comprising parts of stoves and ranges, each weighing not more than 4.5 kg and measuring at least 30 cm in depth, at least 43 cm in width and at least 10 cm in height (described in statistical reporting number 7321.90.1000)

56) Steel drop-in cooktop assemblies comprising parts of stoves and ranges, with black porcelain, with two burners, each weighing not more than 1.2 kg and measuring at least 12 cm in depth, at least 17 cm in width and at least 0.4 cm in height (described in statistical reporting number 7321.90.1000)

57) Steel drop-in cover assemblies with clear or opaque glass comprising parts of stoves and ranges, each measuring not more than 0.4 cm in thickness and at least 42 cm by 52 cm by 4 cm (described in statistical reporting number 7321.90.1000)

58) Steel griddles comprising parts of stoves and ranges, each measuring at least 47 cm in length, at least 35 cm in width and at least 18 cm in height (described in statistical reporting number 7321.90.1000)

59) Tailor welded blanks of hot-formed steel sheets, cut into D-shaped form, each measuring not more than 2 mm by not more than 1.6 mm (described in statistical reporting number 7326.90.8688)

60) Water bottle art kits, each comprising a water bottle of aluminum that is Bisphenol A ("BPA")-free, a carabiner clip, with color markers and adhesive acrylic gems, each kit not more than 0.3 kg in weight (described in statistical reporting number 7616.99.5190)
11) Tungsten carbide rock drilling core bits, with at least 10 percent but not more than 11 percent cobalt content by weight (described in statistical reporting number 8207.19.3060)

62) Pet identification tags of aluminum, each with accompanying split ring for attachment to a collar and weighing not more than 15 g (described in statistical reporting number 8302.49.4000)

63) Pet identification tags of chrome coated brass, each weighing not more than 10 g (described in statistical reporting number 8302.49.4000)

64) Gun safes with digital keypads, of base metal, each weighing at least 148 kg but not more than 422 kg, measuring at least 141 cm but not more than 183 cm in height, at least 55 cm but not more than 107 cm in width and at least 40 cm but not more than 71 cm in depth (described in statistical reporting number 8303.00.0000)

65) Wind turbine hubs (described in statistical reporting number 8412.90.9081)

66) Upright coolers incorporating refrigerating equipment, each measuring not more than 77 cm in width, not more than 78 cm in depth and not more than 200 cm in height, weighing not more than 127 kg, with one swing-type transparent glass door (described in statistical reporting number 8418.50.0080)

67) Fuel filters for internal combustion engines, employing paper filtering media, each measuring at least 7 cm but not more than 16 cm in diameter, weighing not more than 120 g (described in statistical reporting number 8421.23.0000)

68) Shipping scales, of aluminum, containing stainless steel and acrylonitrile-butadiene-styrene ("ABS") plastics, with a maximum weighing capacity of not more than 30 kg, with a graphical display, with a flat top measuring at least 26 cm but not more than 32 cm by at least 29 cm but not more than 36 cm (described in statistical reporting number 8423.81.0040)

69) Portal cranes, each with a jib or operating arm to extend horizontally from the crane and run on rails, with the crane sitting on a pedestal, each crane with lifting capacity of at least 200 t (described in statistical reporting number 8426.30.0000)

70) Self-regulating valves to control fuel pressure for automotive and marine applications (described in statistical reporting number 8481.80.9015)

71) Headlamp assemblies for passenger cars and trucks of subheading 8701.20 or heading 8702, 8703, 8704 or 8705, each comprising a plastic housing, a clear polycarbonate ("PC") lens and light bulbs (described in statistical reporting number 8512.20.2040)

72) Battery holders for bicycle signaling apparatus (described in statistical reporting number 8512.90.2000)

73) Countertop ovens of stainless steel and plastic, each with capacity of not more than 23 liters and measuring not more than 48 cm in width, not more than 32 cm in depth, and not more than 30 cm in height, weighing not more than 10 kg, each oven with convection, bake, steam and broil functions, controlled
manually or by a WiFi-enabled signal (described in statistical reporting number 8516.60.4074)

74) Resonant circuit tags, consisting of at least a tuned capacitor and an antenna, designed for use with a radio frequency surveillance system, the foregoing tags not equipped with memory storage capability or other media (described in statistical reporting number 8531.90.9001)

75) Die-cast aluminum alloy running boards for motor vehicles of headings 8701 to 8705, each measuring not more than 230 cm in length, not more than 21 cm in width and not more than 3 cm in thickness (described in statistical reporting number 8708.29.5060)

76) Unassembled non-upholstered chairs with metal frames (other than household chairs) with seats and backs having a shell of plastics or wood and measuring at least 48 cm but not more than 61 cm in width (described in statistical reporting number 9401.79.0050)

77) Floor-standing jewelry armoires of medium density fiberboard panels and wood veneer, with locking mechanism (described in statistical reporting number 9403.60.8081)

78) Floor-standing jewelry armoires with walnut finish, with locking mechanism, mirrored lid, multiple drawers and compartments, measuring not more than 46.5 cm in length, not more than 35 cm in width and not more than 96 cm in height (described in statistical reporting number 9403.60.8081)"

3. by amending the last sentence of the first paragraph of U.S. note 20(e) to subchapter III of chapter 99:

   a. by deleting the word “or (13)” and by inserting “(13)” in lieu thereof; and

   b. by inserting the phrase “; or (14) heading 9903.88.48 and U.S. note 20(aaa) to subchapter III of chapter 99” after the phrase “U.S. note 20(yy) to subchapter III of chapter 99”.

4. by amending U.S. note 20(f) to subchapter III of chapter 99;

   a. by deleting “or (13)” and by inserting “(13)” in lieu thereof; and

   b. by inserting the phrase “; or (14) heading 9903.88.48 and U.S. note 20(aaa) to subchapter III of chapter 99” after the phrase “U.S. note 20(yy) to subchapter III of chapter 99”.

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5. by amending the first sentence of U.S. note 20(g) to subchapter III of chapter 99:
   a. by deleting “or (7)” and by inserting “(7)” in lieu thereof; and
   b. by inserting “; or (8) heading 9903.88.48 and U.S. note 20(aaa) to subchapter III of chapter 99” after “U.S. note 20(yy) to subchapter III of chapter 99”.

6. by amending the Article Description of heading 9903.88.03:
   a. by deleting “9903.88.45 or” and inserting “9903.88.45,” in lieu thereof; and
   b. by inserting “or 9903.88.48,” after “9903.88.46,”.

7. by amending the Article Description of heading 9903.88.04:
   a. by deleting “9903.88.40 or” and inserting “9903.88.40,” in lieu thereof; and
   b. by inserting “or 9903.88.48,” after “9903.88.46,”.

B. 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 September 24, 2018, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS) is modified:
   a. U.S. note 20(qq)(57) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “weighing 350 g each” and inserting “weighing no less than 350 g and no more than 360 g each” in lieu thereof.
   b. U.S. note 20(ss)(22) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “Articulating video monitor wall mounting assemblies of steel and aluminum, each weighing not less than 4 kg but not more than 7 kg” and inserting “Articulating video monitor mounting assemblies of steel and aluminum, each weighing not less than 1.5 kg but not more than 9.5 kg” in lieu thereof.
c. U.S. note 20(vv)(58) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “weighing at least 225 ktex” and inserting “measuring more than 50 ktex” in lieu thereof.

d. U.S. note 20(vv)(59) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “weighing at least 225 ktex” and inserting “measuring more than 50 ktex” in lieu thereof.

e. U.S. note 20(vv)(118) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “input voltage range” and inserting “output voltage range” in lieu thereof.


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