



[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 an exclusion process in July 2018 and has granted 10 sets of exclusions under the \$34 billion action. The seventh set of exclusions was published in September 2019 and will expire in September 2020. On June 3, 2020, the U.S. Trade Representative established a process for the public to comment on whether to extend particular exclusions for up to 12 months. This notice announces the U.S. Trade Representative's determination to extend certain exclusions through December 31, 2020.

DATES: The product exclusion extensions announced in this notice apply as of September 20, 2020, and extend through 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 Associate General Counsel Philip Butler or Assistant General Counsel 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 Annexes to this notice, contact traderemedy@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

A. Background

For background on the proceedings in this investigation, please see prior notices including: 82 FR 40213 (August 24, 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), 85 FR 24081 (April 30, 2020), 85 FR 33775 (June 2, 2020), 85 FR 34274 (June 3, 2020), 85 FR 41267 (July 9, 2020), and 85 FR 46777 (August 3, 2020).

Effective July 6, 2018, the U.S. Trade Representative imposed additional 25 percent duties on goods of China classified in 818 eight-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 eight-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 September 2019, the U.S. Trade Representative granted a set of exclusion requests, which expire on September 20, 2020. *See* 84 FR 49564 (the September 20 notice). On June 3, 2020, the U.S. Trade Representative invited the public to comment on whether to extend for up to 12 months particular exclusions granted in the September 20 notice. *See* 85 FR 34274 (the June 3 notice).

Under the June 3 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 and 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 and 2019; the commenter's gross revenue for 2018 and 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 of or in opposition to extending the exclusion.

The June 3 notice required the submission of comments no later than July 7, 2020.

B. Determination to Extend Certain Exclusions

Based on an evaluation of the factors set out in the July 11 and June 3 notices, 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 September 20 notice, as set out in the Annexes to this notice.

The June 3 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 Annexes to this notice for less than 12 months - through December 31, 2020. To date, the U.S. Trade Representative has granted more than 6,800 exclusion requests, has extended some of these exclusions, and may consider further extensions of exclusions.

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 Annexes, regardless of whether the importer filed an exclusion request. Further, the scope of each exclusion is governed by the scope of the ten digit HTSUS headings and product descriptions in the Annexes to this notice, and not by the product descriptions set out in any particular request for exclusion.

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

ANNEX A

- 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 20, 2020 and before 11:59 p.m. eastern daylight time on December 31, 2020, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS) is modified:
1. by inserting the following new heading 9903.88.58 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:

Heading/ Subheading	Article Description	Rates of Duty		
		1		2
		General	Special	
“9903.88.58	Effective with respect to entries on or after September 20, 2020, and through December 31, 2020, articles the product of China, as provided for in U.S. note 20(kkk) to this subchapter, each covered by an exclusion granted by the U.S. Trade Representative	The duty provided in the applicable subheading”		

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

“(kkk) The U.S. Trade Representative determined to establish a process by which particular products classified in heading 9903.88.01 and provided for in U.S. notes 20(a) and 20(b) to this subchapter could be excluded from the additional duties imposed by heading 9903.88.01. See 83 Fed. Reg. 40823 (August 16, 2018) and 83 Fed. Reg. 47326 (September 18, 2018). Pursuant to the product exclusion process, the U.S. Trade Representative has determined that, as provided in heading 9903.88.58, the additional duties provided for in heading 9903.88.01 shall not apply to the following particular products, which are provided for in the enumerated statistical reporting numbers:

- (1) Submersible centrifugal pumps (other than fuel, lubricating or cooling medium pumps for internal combustion piston engines; other than stock pumps imported for use with machines for making cellulosic pulp, paper or paperboard), not fitted or designed to be fitted with a measuring device, the foregoing capable of operating at 3,700 liters or more but not exceeding 41,000 liters per hour (described in statistical reporting number 8413.70.2004)
- (2) Tabletop water fountains designed for indoor use, the essential character of which is imparted by submersible centrifugal pumps (described in statistical reporting number 8413.70.2004)

- (3) Rotary compressors, each exceeding 746 W but not exceeding 2,238 W, with a cooling capacity ranging from 2.3 kW to 5.5 kW (described in statistical reporting number 8414.30.8060)
- (4) Thermal roll laminators, each valued not over \$450 (described in statistical reporting number 8420.10.9040)
- (5) Cutting pads, platforms, base plates, pads, shims, trays, which function as guides for hand-operated table-top calendering machines of a width not exceeding 51 cm (described in statistical reporting number 8420.99.9000)
- (6) Ionization filters valued over \$35 but not over \$45 each (described in statistical reporting number 8421.21.0000)
- (7) Disposable plastic filters of a kind suitable for filtering and dehumidifying a patient's breath in a medical device such as a gas analyzer (described in statistical reporting number 8421.39.8090)
- (8) Parts of swimming pool vacuum cleaners (described in statistical reporting number 8421.99.0040)
- (9) 3-member slides with ball bearings, of stainless steel, for use in household dishwashers (described in statistical reporting number 8422.90.0640)
- (10) Shovel loaders, each with a bucket capacity of 11.4 m³ to 12 m³, and an operating weight of 30,000 kg or more but not exceeding 36,000 kg (described in statistical reporting number 8429.51.1055)
- (11) Animal feeding machinery (described in statistical reporting number 8436.80.0090)
- (12) Parts of animal feeding machinery (described in statistical reporting number 8436.99.0090)
- (13) Ink cartridges, each weighing more than 1 kg (described in statistical reporting number 8443.99.2010)
- (14) Printer maintenance kits consisting of two or more replacement parts for printer units of subheading 8443.32.10 specified in additional U.S. note 2 to chapter 84 (described in statistical reporting number 8443.99.2050)
- (15) Horizontal lathes for removing metal, electrically powered, not numerically controlled, each with mill head attachment mounted above the lathe headstock (described in statistical reporting number 8458.19.0020)
- (16) New numerically-controlled milling machines capable of end beveling pipe of an outside diameter of 60 cm or more but not exceeding 305 cm (described in statistical reporting number 8459.61.0080)
- (17) Press brakes, not numerically controlled, having a drive capacity rating of 3kW (described in statistical reporting number 8462.29.0030)
- (18) New hydraulic shearing machines, not numerically controlled, with a power of 7.5 kW, valued at \$3,025 or more each (described in statistical reporting number 8462.39.0050)
- (19) Tool holders of a kind used to hold various types of metal working tools for use on milling machine spindles (described in statistical reporting number 8466.10.0175)
- (20) Modularized plants for the manufacture of lithium hydroxide by functions involving mixing, kneading or stirring (described in statistical reporting number 8479.82.0040)
- (21) Ball type angle cock valve bodies, of cast iron, for oleohydraulic or pneumatic transmissions (described in statistical reporting number 8481.90.9020)

- (22) Valve bodies, of aluminum, of valves for oleohydraulic or pneumatic transmissions (described in statistical reporting number 8481.90.9020)
- (23) Hydraulic valve parts, other than valve bodies, of valves for oleohydraulic or pneumatic transmissions, each valued not over \$5 (described in statistical reporting number 8481.90.9040)
- (24) Angular contact ball bearings, not for use with wheel hub bearing units, having an inner diameter of 25 mm or greater but not exceeding 55 mm, an outer diameter of 50 mm or greater but not exceeding 95 mm, a width of 20 mm or greater but not exceeding 35 mm, with single or double row of steel balls and a cage of steel or plastics (described in statistical reporting number 8482.10.5028)
- (25) Angular contact ball bearings, not over 40 mm in width, other than wheel hub bearing units (described in statistical reporting number 8482.10.5028)
- (26) Electric motors, AC, permanent split capacitor type, not exceeding 16 W (described in statistical reporting number 8501.10.4020)
- (27) DC motors, of an output exceeding 37.5 W but not exceeding 74.6 W, valued over \$2 but not over \$30 each (described in statistical reporting number 8501.31.2000)
- (28) AC motors, multi-phase, of rolled steel frame construction (described in statistical reporting number 8501.51.4040)
- (29) AC motors, multi-phase, of an output of 186.5 kW or more but not exceeding 373 kW, having a cast iron frame construction (described in statistical reporting number 8501.53.8040)
- (30) Dual layer printed circuit board assemblies, each valued over \$30 but not over \$35 (described in statistical reporting number 8504.90.7500)
- (31) Transceivers, 10-meter, not hand-held, for operation in infrequencies of 28.000 to 29.700 MHz (described in statistical reporting number 8525.60.1050)
- (32) Limit switches, for a voltage not exceeding 1,000 V, each valued over \$19 but not over \$32 (described in statistical reporting number 8536.50.9055)
- (33) Modular light switches, for a voltage not exceeding 1,000 V, presented in polyethylene terephthalate (PET) housings, designed for use with a backplate (described in statistical reporting number 8536.50.9065)
- (34) Switches designed for use in motor vehicles, driver or passenger activated (described in statistical reporting number 8536.50.9065)
- (35) Coaxial connectors, for a voltage not exceeding 1,000 V, valued over \$0.20 but not over \$0.30 each (described in statistical reporting number 8536.69.4010)
- (36) Butt splice connectors, for a voltage not exceeding 1,000 V, each valued not over \$3 (described in statistical reporting number 8536.90.4000)
- (37) Ring terminals, for a voltage not exceeding 1,000 V (described in statistical reporting number 8536.90.4000)
- (38) Twist-on wire connectors, for a voltage not exceeding 1,000 V, each valued not over \$0.03 (described in statistical reporting number 8536.90.4000)
- (39) S-band and X-band linear accelerators designed for use in radiation surgery or radiation therapy equipment (described in statistical reporting number 8543.10.0000)
- (40) Four-wheel off-road vehicles, with only spark-ignition internal combustion reciprocating piston engines, of a cylinder capacity not exceeding 1,000 cc, with straddle seat and handlebar control, each with label indicating that vehicle is for

- operation only by persons at least 16 years of age, each valued not over \$5000 (described in statistical reporting number 8703.21.0110)
- (41) Works trucks, electrical, operator riding, each of a curb weight exceeding 8,500 kg but not exceeding 9,500 kg (described in statistical reporting number 8709.11.0030)
 - (42) Depth-sounding apparatus, each valued not over \$50 (described in statistical reporting number 9014.80.2000)
 - (43) Disposable electrocardiograph (ECG) electrodes (described in statistical reporting number 9018.11.9000)
 - (44) Portable ultrasonic scanner consoles, each weighing less than 4 kg, presented with or without transducer (described in statistical reporting number 9018.12.0000)
 - (45) Digital peak flow meters suitable for use by medical professionals (described in statistical reporting number 9018.19.9550)
 - (46) Fingertip pulse oximeters suitable for use by medical professionals (described in statistical reporting number 9018.19.9550)
 - (47) Bismuth germanate crystals with set dimensional and surface finish requirements and used as a detection element in Positron Emission Tomography (PET) detectors (described in statistical reporting number 9018.19.9560)
 - (48) Magnetic resonance imaging ("MRI") patient enclosure devices, each incorporating radio frequency and gradient coils (described in statistical reporting number 9018.19.9560)
 - (49) Parts and accessories of capnography monitors (described in statistical reporting number 9018.19.9560)
 - (50) Oscopes (described in statistical reporting number 9018.90.2000)
 - (51) Anesthesia masks (described in statistical reporting number 9018.90.3000)
 - (52) Electrosurgical cautery pencils with electrical connectors (described in statistical reporting number 9018.90.6000)
 - (53) Printed circuit board assemblies designed for use in displaying operational performance of medical infusion equipment (described in statistical reporting number 9018.90.7580)
 - (54) X-ray tables (described in statistical reporting number 9022.90.2500)
 - (55) X-ray tube housings and parts thereof (described in statistical reporting number 9022.90.4000)
 - (56) Parts and accessories, of metal, for mobile X-ray apparatus (described in statistical reporting number 9022.90.6000)
 - (57) Printed circuit board assemblies, of a kind designed for use in X-ray apparatus (described in statistical reporting number 9022.90.6000)
 - (58) Vertical stands specially designed to support, contain or adjust the movement of X-ray digital detectors, or the X-ray tube and collimator in complete X-ray diagnostic systems (described in statistical reporting number 9022.90.6000)
 - (59) Thermoplastic masks of polycaprolactone for the use of immobilizing patients, during the use of alpha, beta or gamma radiations, for radiography or radiotherapy (described in statistical reporting number 9022.90.9500)
 - (60) Automatic thermostats for heating, ventilation and air conditioning systems, containing temperature and humidity sensors, designed for wall mounting (described in statistical reporting number 9032.10.0030)

- (61) Battery balancers designed for regulating voltage across batteries, other than for 6, 12 or 24 volt systems (described in statistical reporting number 9032.89.4000)
- (62) Thermostat covers (described in statistical reporting number 9032.90.6120)”

- 3. by amending the last sentence of the first paragraph of U.S. note 20(a) to subchapter III of chapter 99 by:
 - a. by deleting “or (10)” and by inserting “(10)” in lieu thereof; and
 - b. by inserting “; or (11) heading 9903.88.58 and U.S. note 20(kkk) to subchapter III of chapter 99” after the phrase “U.S. note 20(eee) to subchapter III of chapter 99”, where it appears at the end of the sentence.
- 4. by amending U.S. note 20(b) to subchapter III of chapter 99 by:
 - a. by deleting “or (10)” and by inserting “(10)” in lieu thereof; and
 - b. by inserting “; or (11) heading 9903.88.58 and U.S. note 20(kkk) to subchapter III of chapter 99” after the phrase “U.S. note 20(eee) to subchapter III of chapter 99”, where it appears at the end of the sentence.
- 5. by amending the Article Description of heading 9903.88.01:
 - a. by deleting “9903.88.50 or”;
 - b. by inserting in lieu thereof “9903.88.50,”; and
 - c. by inserting “or 9903.88.58,” after “9903.88.52,”.

ANNEX B

The following table is provided for informational purposes only. The table contains a list of the original product exclusions that are being extended by this notice. In addition, the table contains the corresponding subdivisions in new note 20(kkk) to subchapter III of Chapter 99 and new heading 9903.88.58 for the product exclusions that are being extended by this notice. The original product exclusions expire on September 20, 2020. The exclusions that are being extended are effective from September 20, 2020 through December 31, 2020.

Original Product Exclusions		Corresponding Extension of Product Exclusions	
Note 20 Subdivision	Chapter 99 Heading	Note 20 Subdivision	Chapter 99 Heading
20(q)(9)	9903.88.14	20(kkk)(1)	9903.88.58
20(q)(11)	9903.88.14	20(kkk)(2)	9903.88.58
20(q)(25)	9903.88.14	20(kkk)(3)	9903.88.58

20(q)(46)	9903.88.14	20(kkk)(4)	9903.88.58
20(q)(47)	9903.88.14	20(kkk)(5)	9903.88.58
20(q)(51)	9903.88.14	20(kkk)(6)	9903.88.58
20(q)(61)	9903.88.14	20(kkk)(7)	9903.88.58
20(q)(64)	9903.88.14	20(kkk)(8)	9903.88.58
20(q)(70)	9903.88.14	20(kkk)(9)	9903.88.58
20(q)(82)	9903.88.14	20(kkk)(10)	9903.88.58
20(q)(96)	9903.88.14	20(kkk)(11)	9903.88.58
20(q)(97)	9903.88.14	20(kkk)(12)	9903.88.58
20(q)(99)	9903.88.14	20(kkk)(13)	9903.88.58
20(q)(101)	9903.88.14	20(kkk)(14)	9903.88.58
20(q)(104)	9903.88.14	20(kkk)(15)	9903.88.58
20(q)(106)	9903.88.14	20(kkk)(16)	9903.88.58
20(q)(108)	9903.88.14	20(kkk)(17)	9903.88.58
20(q)(109)	9903.88.14	20(kkk)(18)	9903.88.58
20(q)(114)	9903.88.14	20(kkk)(19)	9903.88.58
20(q)(130)	9903.88.14	20(kkk)(20)	9903.88.58
20(q)(141)	9903.88.14	20(kkk)(21)	9903.88.58
20(q)(142)	9903.88.14	20(kkk)(22)	9903.88.58
20(q)(143)	9903.88.14	20(kkk)(23)	9903.88.58
20(q)(148)	9903.88.14	20(kkk)(24)	9903.88.58
20(q)(149)	9903.88.14	20(kkk)(25)	9903.88.58
20(q)(169)	9903.88.14	20(kkk)(26)	9903.88.58
20(q)(179)	9903.88.14	20(kkk)(27)	9903.88.58
20(q)(185)	9903.88.14	20(kkk)(28)	9903.88.58
20(q)(188)	9903.88.14	20(kkk)(29)	9903.88.58
20(q)(198)	9903.88.14	20(kkk)(30)	9903.88.58
20(q)(210)	9903.88.14	20(kkk)(31)	9903.88.58
20(q)(232)	9903.88.14	20(kkk)(32)	9903.88.58
20(q)(234)	9903.88.14	20(kkk)(33)	9903.88.58
20(q)(236)	9903.88.14	20(kkk)(34)	9903.88.58
20(q)(237)	9903.88.14	20(kkk)(35)	9903.88.58
20(q)(244)	9903.88.14	20(kkk)(36)	9903.88.58
20(q)(247)	9903.88.14	20(kkk)(37)	9903.88.58
20(q)(248)	9903.88.14	20(kkk)(38)	9903.88.58
20(q)(254)	9903.88.14	20(kkk)(39)	9903.88.58
20(q)(262)	9903.88.14	20(kkk)(40)	9903.88.58
20(q)(263)	9903.88.14	20(kkk)(41)	9903.88.58
20(q)(272)	9903.88.14	20(kkk)(42)	9903.88.58
20(q)(274)	9903.88.14	20(kkk)(43)	9903.88.58

20(q)(275)	9903.88.14	20(kkk)(44)	9903.88.58
20(q)(276)	9903.88.14	20(kkk)(45)	9903.88.58
20(q)(277)	9903.88.14	20(kkk)(46)	9903.88.58
20(q)(278)	9903.88.14	20(kkk)(47)	9903.88.58
20(q)(279)	9903.88.14	20(kkk)(48)	9903.88.58
20(q)(280)	9903.88.14	20(kkk)(49)	9903.88.58
20(q)(281)	9903.88.14	20(kkk)(50)	9903.88.58
20(q)(282)	9903.88.14	20(kkk)(51)	9903.88.58
20(q)(283)	9903.88.14	20(kkk)(52)	9903.88.58
20(q)(284)	9903.88.14	20(kkk)(53)	9903.88.58
20(q)(285)	9903.88.14	20(kkk)(54)	9903.88.58
20(q)(286)	9903.88.14	20(kkk)(55)	9903.88.58
20(q)(287)	9903.88.14	20(kkk)(56)	9903.88.58
20(q)(288)	9903.88.14	20(kkk)(57)	9903.88.58
20(q)(290)	9903.88.14	20(kkk)(58)	9903.88.58
20(q)(291)	9903.88.14	20(kkk)(59)	9903.88.58
20(q)(303)	9903.88.14	20(kkk)(60)	9903.88.58
20(q)(306)	9903.88.14	20(kkk)(61)	9903.88.58
20(q)(310)	9903.88.14	20(kkk)(62)	9903.88.58

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