

**OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE**

**Extension of Exclusions and Request for Comments: China's Acts, Policies and Practices Related to Technology Transfer, Intellectual Property and Innovation**

**AGENCY:** Office of the United States Trade Representative (USTR).

**ACTION:** Notice and request for comments.

**SUMMARY:** In prior notices, the U.S. Trade Representative modified the actions in the Section 301 investigation of China's acts, policies and practices related to technology transfer, intellectual property and innovation by excluding from additional duties certain products of China. In September 2023, the U.S. Trade Representative determined to extend 352 previously reinstated exclusions and 77 COVID-related exclusions through December 31, 2023. This notice announces the U.S. Trade Representative's determination to extend for five months, through May 31, 2024, these same exclusions. This notice also announces that USTR is opening of a docket for public comments on whether to further extend particular exclusions.

**DATES:** The extension announced in this notice will extend the reinstated and COVID-related product exclusions through May 31, 2024.

January 22, 2024: The public docket on the web portal at <http://comments.USTR.gov> will open for interested persons to submit comments.

February 21, 2024 at 11:59 p.m. ET: To be assured of consideration, submit written comments on the public docket by this time.

**ADDRESSES:** You must submit all comments through the online portal:

<https://comments.ustr.gov/>.

**FOR FURTHER INFORMATION CONTACT:** For general questions about this notice, contact Senior Associate General Counsel Philip Butler or Assistant General Counsel Edward Marcus at (202) 395-5725. For specific questions on customs classification or implementation of the product exclusions, contact [traderemedy@cbp.dhs.gov](mailto:traderemedy@cbp.dhs.gov).

**SUPPLEMENTARY INFORMATION:**

**A. Background**

In the course of this investigation, the U.S. Trade Representative has imposed additional duties on products of China in four tranches. *See* 83 FR 28719 (June 20, 2018); 83 FR 40823 (August 16, 2018); 83 FR 47974 (September 21, 2018), as modified by 83 FR 49153 (September 28, 2018); and 84 FR 43304 (August 20, 2019), as modified by 84 FR 69447 (December 18, 2019) and 85 FR 3741 (January 22, 2020). For each tranche of additional duties, the U.S. Trade Representative established a process by which interested persons could request the exclusion of particular products subject to the action. With few exceptions, most of these exclusions expired in 2019 and 2020.

*Reinstated Exclusions*

On October 8, 2021, the U.S. Trade Representative invited the public to submit comments on whether to reinstate certain exclusions previously granted and extended. *See* 86 FR 56345 (October 8, 2021). On March 28, 2022, the U.S. Trade Representative determined to further modify the action by reinstating 352 expired exclusions. The reinstated exclusions applied as of October 12, 2021, and extended through December 31, 2022. *See* 87 FR 17380 (March 28, 2022) (March 28 notice). On December 21, 2022, the

U.S. Trade Representative determined to extend the 352 reinstated exclusions through September 30, 2023. *See* 87 FR 78187 (December 21, 2022).

#### *COVID-Related Exclusions*

On March 25, 2020, USTR requested public comments on proposed modifications to exclude from additional duties certain medical-care products related to the U.S. response to COVID. 85 FR 16987 (March 25, 2020). On December 29, 2020, USTR announced 99 product exclusions for medical-care products and products related to the U.S. COVID response. 85 FR 85831 (December 20, 2020). For background on previous extensions to exclusions related to the U.S. response to COVID, see prior notices including 86 FR 13785 (March 10, 2021), 86 FR 63438 (November 16, 2021), 87 FR 33871 (June 03, 2022), and 87 FR 73383 (November 29, 2022). On May 17, 2023, the U.S. Trade Representative determined to extend 77 of the COVID-related exclusions through September 30, 2023. *See* 88 FR 31580 (May 17, 2023) (May 17 notice).

#### *Four-Year Review*

In accordance with Section 307(c)(3) of the Trade Act of 1974, on September 8, 2022, USTR announced that it would be conducting a review of the July 6, 2018 and August 23, 2018 actions, as modified. *See* 87 FR 26797 (May 5, 2022); 87 FR 55073 (September 8, 2022). In a notice published on October 17, 2022 (87 FR 62914), USTR announced that it was opening a docket on November 15, 2022 (USTR–2022–0014) for interested persons to submit comments with respect to any aspect of Section 307(c) considerations, including whether certain tariff headings (including those with a product specific exclusion) should remain covered by the actions.

To allow for consideration under the four-year review, on September 11, 2023, the U.S. Trade Representative determined to extend the 429 product specific exclusions still in effect (352 reinstated exclusions and 77 COVID-related exclusions) through December 31, 2023. *See* 88 FR 62423 (September 11, 2023) (September 11 notice).

**B. Determination to Further Extend Exclusions**

In light of public comments submitted in the four-year review, the U.S. Trade Representative has determined that it is appropriate to seek comments on whether to further extend any of the 429 product specific exclusions. Accordingly, to provide time for public comments and pursuant to sections 301(b), 301(c) and 307(a) of the Trade Act of 1974, as amended, the U.S. Trade Representative will extend the 429 exclusions for five months, until May 31, 2024. The U.S. Trade Representative's determination considers public comments previously submitted, advice of advisory committees, and advice of the interagency Section 301 Committee.

The extensions announced in the notice are available for any product that meets the description in the product exclusion. Further, the scope of each exclusion and modification is governed by the scope of the ten-digit Harmonized Tariff Schedule of the United States (HTSUS) subheadings and product descriptions in annex A and annex B of the September 11, 2023 notice. U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

**C. Request for Public Comment**

On January 22, 2024, USTR will open a docket to receive public comments on whether to further extend particular exclusions beyond May 31, 2024. USTR will evaluate each exclusion on a case-by-case basis. The focus of the evaluation will be on

the availability of products covered by the exclusion from sources outside of China, efforts undertaken to source products covered by the exclusion from the United States or third countries, why additional time is needed, and on what timeline, if any, the sourcing of products covered by exclusion is likely to shift outside of China. In addition, USTR will consider whether or not extending the exclusion will impact U.S. interests, including the overall impact of the exclusion on the goal of obtaining the elimination of China's acts, policies and practices covered in the Section 301 investigation.

**D. Procedures To Comment on Particular Exclusions**

The 352 reinstated exclusions can be found in the Annex of the March 28 notice. *See also* 87 FR 62485 (October 14, 2022); 87 FR 62486 (October 14, 2022); 88 FR 46362 (July 19, 2023) The 77 COVID-related exclusions can be found in the Annex of the May 17 notice. *See also* 88 FR 38120 (June 12, 2023). For ease of reference, USTR is also posting a list of the exclusions at <http://comments.USTR.gov>.

As noted above, the public docket on the portal will be open from January 22, 2024 to February 21 2024. Fields on the comment form marked with an asterisk (\*) are required fields. Fields with gray (BCI) notation are for business confidential information, which will not be publicly available. Fields with a green (Public) notation will be publicly available. Additionally, interested persons will be able to upload documents to supplement their comments. Commenters will be able to review the public version of their comments before they are posted.

Set forth below is a summary of the information to be entered on the exclusion comment form.

- Contact information, including the full legal name of the organization making the comment, whether the commenter is a third party (*e.g.*, law firm, trade association or customs broker) submitting on behalf of an organization or industry, and the name of the third party organization, if applicable.
- The exclusion covered by the comment.
- Whether you support or oppose extending the exclusion beyond May 31, 2024.
- The availability of products covered by the exclusion from sources outside of China.
- Efforts undertaken to source the product from the United States or third countries.
- Why additional time is needed to shift sourcing out of China and on what timeline, if any, you expect sourcing to shift outside of China.

**E. Submission Instructions**

To be assured of consideration, you must submit your comment when the public docket on the portal is open - from January 22, 2024 to February 21, 2024. Interested persons seeking to comment on more than one exclusion must submit a separate comment for each exclusion. By submitting a comment, the commenter certifies that the information provided is complete and correct to the best of their knowledge.

**Annex A**

The U.S. Trade Representative has determined to extend all exclusions previously extended under heading 9903.88.67 and U.S. notes 20(ttt)(i), 20(ttt)(ii), 20(ttt)(iii), and 20(ttt)(iv) to subchapter III of chapter 99 of the HTSUS. *See* 88 FR 62423 (September 11, 2023). The extension is effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 am eastern standard time

on January 1, 2024, and before 11:59 pm eastern daylight time on May 31, 2024.

Effective on January 1, 2024, the article description of heading 9903.88.67 of the HTSUS is modified by deleting “December 31, 2023,” and by inserting “May 31, 2024,” in lieu thereof.

### **Annex B**

The U.S. Trade Representative has determined to extend all exclusions previously extended under heading 9903.88.68 and U.S. notes 20(uuu)(i), 20(uuu)(ii), 20(uuu)(iii), and 20(uuu)(iv) to subchapter III of chapter 99 of the HTSUS. *See* 88 FR 62423 (September 11, 2023). The extension is effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 am eastern standard time on January 1, 2024, and before 11:59 pm eastern daylight time on May 31, 2024. Effective on January 1, 2024, the article description of heading 9903.88.68 of the HTSUS is modified by deleting “January 1, 2024,” and by inserting “June 1, 2024,” in lieu thereof.

**Greta Peisch,**  
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