

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Comments on Proposed Modifications: China’s Acts, Policies and Practices Related to Technology Transfer, Intellectual Property and Innovation

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

ACTION: Request for comments.

SUMMARY: In a notice published on September 18, 2024, the U.S. Trade Representative announced certain modifications to the actions taken in the Section 301 investigation of China’s acts, policies, and practices related to technology transfer, intellectual property, and innovation, including imposing additional Section 301 duties or increasing the rate of existing Section 301 duties, on certain products of China in strategic sectors. Additionally, the U.S. Trade Representative proposed increasing Section 301 tariff rates on five subheadings of the Harmonized Tariff Schedule of the United States (HTSUS) covering certain tungsten products, wafers, and polysilicon. This notice announces that USTR will open an electronic portal on September 23, 2024 for interested parties to submit comments on the proposed tariff increases for the five subheadings.

DATES: September 23, 2024, at 12:01 a.m. EDT: The public docket on the web portal at <https://comments.ustr.gov> will open for interested persons to submit comments on the proposed additional modifications.

October 22, 2024, at 11:59 p.m. EST: To be assured of consideration, submit written comments on the public docket by this date.

FOR FURTHER INFORMATION CONTACT: For general questions about this notice, contact Philip Butler and Megan Grimball, Chairs of the Section 301 Committee at 202.395.5725. For specific questions on customs classification, contact traderemedyc@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

A. Background

For background on the proceedings in this investigation, please see the prior notices including 82 FR 40213 (August 24, 2017), 83 FR 14906 (April 6, 2018), 83 FR 28710 (July 6, 2018), and 83 FR 40823 (August 23, 2018).

On September 8, 2022, USTR announced that in accordance with Section 307(c)(3) of the Trade Act (19 U.S.C. 2417(c)(3)), the U.S. Trade Representative would conduct a review of the two actions taken, as modified, in this investigation. *See* 87 FR 55073.

Based on information obtained during the review, USTR, in consultation with the Section 301 Committee, prepared a comprehensive report that included findings on the effectiveness of the actions taken in this investigation in achieving the objectives of the investigation, other actions that could be taken, and the effects of such actions on the United States economy, including consumers. The report, *Four-Year Review of Actions Taken in the Section 301 Investigation: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation* (Report), was published on May 14, 2024, and is available on the USTR website.

On May 14, 2024, taking into consideration the U.S. Trade Representative's findings in the Report and recommendations, the President issued a Memorandum

(President’s Memorandum) that directed the U.S. Trade Representative to: “maintain, as appropriate and consistent with this memorandum, the *ad valorem* rates of duty and lists of products subject to the [actions] taken under the Section 301 investigation” and “[t]o further encourage China to eliminate the acts, policies, and practices at issue, and to counteract the burden or restriction of these acts, policies, and practices, the Trade Representative shall modify the [actions taken in the investigation] to increase Section 301 *ad valorem* rates of duty” for certain specified products of China. *See* <https://www.whitehouse.gov/briefing-room/presidential-actions/2024/05/14/memorandum-on-actions-by-the-united-states-related-to-the-statutory-4-year-review-of-the-section-301-investigation-of-chinas-acts-policies-and-practices-related-to-technology-transfer-intellectua/>. In particular, the President’s Memorandum specified 14 categories of products for proposed tariff increases, tariff rates for those products, and year for tariff increases.

The President also directed the U.S. Trade Representative to establish a process by which interested persons may request that particular machinery used in domestic manufacturing classified within a subheading under Chapters 84 and 85 of the HTSUS be temporarily excluded from Section 301 tariffs, and directed the U.S. Trade Representative to prioritize, in particular, exclusions for certain solar manufacturing equipment.

B. Proposed Modifications

Consistent with the President’s direction, USTR issued a *Federal Register* notice with proposed modifications, including proposed increases in Section 301 duties on 382 HTSUS subheadings and 5 statistical reporting numbers of the HTSUS, with an

approximate annual trade value of \$18 billion (2023). *See* 89 FR 46252 (May 28, 2024) (May 28 notice).

In accordance with Section 307(a)(2) of the Trade Act (19 U.S.C. 2417(a)(2)), USTR invited comments from interested persons and opened a 30-day docket on May 29, 2024 (USTR–2024–0007). With respect to the proposed tariff increases, USTR requested commenters to address the effectiveness of the proposed modification, the effects of the proposed modification on the U.S. economy, including consumers, and whether the tariff subheadings or statistical reporting numbers identified for each product or sector adequately cover the products and sectors included in the President’s direction to the U.S. Trade Representative.

On September 18, 2024, the U.S. Trade Representative announced modifications to the actions, including certain adjustments to the modifications proposed in the May 28 notice. *See* 89 FR 76581 (September 18 notice). Additionally, and based on comments requesting that certain HTSUS subheadings be added to the 382 HTSUS subheadings proposed for tariff increases, the U.S. Trade Representative proposed increasing Section 301 duties on 5 additional HTSUS subheadings. Specifically, the U.S. Trade Representative proposed increasing tariffs to 25 percent for 3 subheadings covering certain tungsten products and proposed increasing tariffs to 50 percent for 2 subheadings covering wafers and polysilicon. *See* 89 FR 76581. The September 18 notice also announced that USTR would publish a separate notice with procedures for interested parties to provide views on the five subheadings proposed for tariff increases.

The five subheadings proposed for tariff increases are:

- 8101.94.00 (Tungsten, unwrought (including bars and rods obtained simply by sintering)).
- 8101.99.10 (Tungsten bars and rods (o/than those obtained simply by sintering), profiles, plates, sheets, strip and foil).
- 8101.99.80 (Tungsten, articles nesoi).
- 2804.61.00 (Silicon containing by weight not less than 99.99 percent of silicon).
- 3818.00.00 (Chemical elements doped for use in electronics, in the form of discs, wafers etc., chemical compounds doped for electronic use).

C. Request for Public Comments

In accordance with Section 307(a)(2) of the Trade Act (19 U.S.C. 2417(a)(2)), USTR invites comments from interested persons with respect to the proposed modifications. To be assured of consideration, you must submit written comments by October 22, 2024. With respect to USTR’s proposed tariff increases on the five subheadings listed in Section B, interested persons are invited to comment on:

- The extent to which the proposed modification would enhance the effectiveness of the tariff actions in obtaining the elimination of or in counteracting China’s acts, policies, and practices related to technology transfer, intellectual property and innovation.
- The likely effects of the proposed modification on the U.S. economy, including consumers.

D. Procedures for Written Submissions

You must submit written comments using the appropriate docket on the portal at <https://comments.ustr.gov/>. To submit written comments, use the docket on the portal entitled Request for Comments: Proposed Modifications to the Section 301 Actions,

docket number USTR–2024–0016. You do not need to establish an account to submit comments. The first screen of the docket allows you to enter identification and contact information. Third party organizations such as law firms, trade associations, or customs brokers, should identify the full legal name of the organization they represent, and identify the primary point of contact for the submission. Information fields are optional; however, your comment may not be considered if insufficient information is provided.

Fields with a gray Business Confidential Information (BCI) notation are for BCI that will not be made publicly available. Fields with a green (Public) notation will be viewable by the public.

After entering the identification and contact information, you can complete the remainder of the comment, or any portion of it by clicking ‘Next.’ You may upload documents at the end of the form and indicate whether USTR should treat the documents as business confidential or public information.

Clearly mark any page containing BCI as ‘BUSINESS CONFIDENTIAL’ on the top of that page and clearly indicate, via brackets, highlighting, or other means, the specific information that is BCI. If you request business confidential treatment, you must certify in writing that the information would not customarily be released to the public. Parties uploading attachments containing BCI also must submit a public version of their comments. If these procedures are not sufficient to protect BCI or otherwise protect business interests, please contact the USTR Section 301 support line at 202.395.5725 to discuss whether alternative arrangements are possible. USTR will post attachments uploaded to the docket for public inspection, except for properly designated BCI. You can view submissions on USTR’s electronic portal at [https:// comments.ustr.gov](https://comments.ustr.gov).

Juan Millan,
Acting General Counsel,
Office of the United States Trade Representative.