

Billing Code 3290-F2

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 (USTR).

ACTION: Notice.

SUMMARY: In prior notices, the U.S. Trade Representative modified the action 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 medical-care products needed to address the COVID-19 pandemic. The 99 exclusions for medical care products to address COVID-19 were published on December 29, 2020, and are scheduled to expire on November 14, 2021. On August 27, 2021, USTR requested comments on whether to extend the COVID exclusions. This notice announces the U.S. Trade Representative's determination to provide a 16-day transition period for all COVID exclusions (through November 30, 2021), and to extend 81 of the COVID exclusions for an additional 6 months.

DATES: To provide a transition period, this notice extends the 99 exclusions scheduled to expire on November 14, 2021, through November 30, 2021. Those exclusions receiving further extensions will expire six months after November 30, 2021, on May 31, 2022. 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

Rachel Komito at (202) 395-5725. For specific questions on customs classification or implementation of the product exclusions, contact traderemedym@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

A. Background

In the course of this investigation the U.S. Trade Representative 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, the U.S. Trade Representative established a process by which U.S. stakeholders could request the exclusion of particular products subject to the action. The U.S. Trade Representative later established a process by which U.S. stakeholders could request the extension of particular exclusions. Additionally, on March 25, 2020, the U.S. Trade Representative requested public comments on possible further modifications to remove Section 301 duties from medical-care products to address the COVID-19 pandemic. 85 FR 16987.

On December 29, 2020, USTR announced the extension of 80 product exclusions on medical-care and/or COVID response products; further modifications in the form of 19 product exclusions to remove Section 301 duties from additional medical-care and/or COVID response products; and that USTR might consider further extensions and/or modifications as appropriate. *See* 85 FR 85831 (the December 29 notice). On March 10, 2021, USTR announced the extension of these 99 exclusions until September 30, 2021, and that USTR might consider further extensions and/or modifications as appropriate. 86

FR 13785. On August 27, 2021, USTR published a notice requesting public comments on whether any of these exclusions should be further extended for up to six months. 86 FR 48280 (the August 27 notice). The August 27 notice stated that USTR would evaluate each exclusion on a case-by-case basis and the evaluation would examine whether the exclusion remains appropriate in light of recent developments including the spread of the Delta variant in the United States and increased domestic production of certain products, and taking account of the overall impact of these exclusions on the goal of obtaining the elimination of China's acts, policies, and practices covered in this Section 301 investigation.

On September 29, 2021, USTR announced the interim extension of these 99 exclusions through November 14, 2021, in order to provide time to review public comments submitted in response to the August 27 notice. 86 FR 54011.

B. Determination to Extend Certain Exclusions

Based on evaluation of the factors set out in in the August 27 notice, and pursuant to sections 301(b), 301(c), and 307(a) of the Trade Act of 1974, as amended, the U.S. Trade Representative has determined to extend certain product exclusions described in the December 29 notice for six months past the expiry of the remaining exclusions (until May 31, 2022), as set out in the annexes to this notice. The U.S. Trade Representative's determination considers public comments submitted in response to the August 27 notice, and the advice of advisory committees, the interagency Section 301 Committee, and the White House COVID-19 Response Team.

To provide a transition period for the expiring exclusions, the U.S. Trade Representative has determined to extend all 99 product exclusions described in the December 29 notice through November 30, 2021.

The exclusion extensions 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 the annexes to this notice. U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

The U.S. Trade Representative may continue to consider further extensions and/or additional modifications as appropriate.

Greta Peisch
General Counsel
Office of the United States Trade Representative.

Annex for COVID Extensions

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 November 15, 2021, and before 11:59 p.m. eastern daylight time on November 30, 2021, each of the article descriptions of headings 9903.88.62, 9903.88.63, 9903.88.64 and 9903.88.65 of the Harmonized Tariff Schedule of the United States are modified by deleting “November 14, 2021,” and by inserting “November 30, 2021,” in lieu thereof.

Annex B

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 December 1, 2021 and before 11:59 p.m. eastern daylight time on May 31, 2022, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS) is modified:

1. by inserting the following new heading 9903.88.66 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	
9903.88.66	Effective with respect to entries on or after December 1, 2021, and before June 1, 2022, articles the product of China, as provided for in U.S. note 20(sss) 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(sss) to subchapter III of chapter 99 in numerical sequence:

“(sss) (i) 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 9903.88.66, 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) 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)
- (2) 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)
- (3) Disposable electrocardiograph (ECG) electrodes (described in statistical reporting number 9018.11.9000)
- (4) Ultrasonic scanning apparatus, each having dimensions not exceeding 122 cm by 77 cm by 127 cm, whether or not presented with transducer (described in statistical reporting number 9018.12.0000)
- (5) Blood pressure monitors suitable for use by medical professionals (described in statistical reporting number 9018.19.9530)
- (6) Digital peak flow meters suitable for use by medical professionals (described in statistical reporting number 9018.19.9550)
- (7) Fingertip pulse oximeters suitable for use by medical professionals (described in statistical reporting number 9018.19.9550)
- (8) 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)
- (9) Magnetic resonance imaging ("MRI") patient enclosure devices, each incorporating radio frequency and gradient coils (described in statistical reporting number 9018.19.9560)
- (10) Parts and accessories of capnography monitors (described in statistical reporting number 9018.19.9560)
- (11) Disposable surface electrodes for Intra-operative neuromonitoring ("IONM") systems, each composed of a surface electrode pad, an insulated wire, and a standard DIN 42802 connector (described in statistical reporting number 9018.19.9560)
- (12) Otoscopes (described in statistical reporting number 9018.90.2000)
- (13) Anesthesia masks (described in statistical reporting number 9018.90.3000)
- (14) Anesthetic instruments and appliances suitable for use in medical or surgical sciences, and parts and accessories of the foregoing (described in statistical reporting number 9018.90.3000)
- (15) Electrosurgical cautery pencils with electrical connectors (described in statistical reporting number 9018.90.6000)
- (16) Printed circuit board assemblies designed for use in displaying operational performance of medical infusion equipment (described in statistical reporting number 9018.90.7580)
- (17) Combined positron emission tomography/computed tomography (PET/CT) scanners which utilize multiple PET gantries (frames) on a common base (described in statistical reporting number 9022.12.0000)
- (18) X-ray tables (described in statistical reporting number 9022.90.2500)
- (19) X-ray tube housings and parts thereof (described in statistical reporting number 9022.90.4000)

- (20) Multi-leaf collimators of radiotherapy systems based on the use of X-ray (described in statistical reporting number 9022.90.6000)
- (21) Parts and accessories, of metal, for mobile X-ray apparatus (described in statistical reporting number 9022.90.6000)
- (22) 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)
- (23) 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)
- (24) Inoculator sets of plastics, each consisting of a plate with multiple wells, a display tray, and a lid; when assembled, the set measuring 105 mm or more but not exceeding 108 mm in width, 138 mm or more but not exceeding 140 mm in depth, and 6.5 mm or less in thickness (described in statistical reporting number 9027.90.5650)

(ii) The U.S. Trade Representative determined to establish a process by which particular products classified in heading 9903.88.02 and provided for in U.S. notes 20(c) and 20(d) to this subchapter could be excluded from the additional duties imposed by heading 9903.88.02. 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 9903.88.66, the additional duties provided for in heading 9903.88.02 shall not apply to the following particular products, which are provided for in the enumerated statistical reporting numbers:

- (1) 9025.19.8010
- (2) 9025.19.8020
- (3) 9025.19.8060
- (4) 9025.19.8085
- (5) Molded acrylonitrile-butadiene-styrene (ABS) tubes, of a kind used to effect the sterile transfer of fluid from a bag or vial to another container, each tube measuring 7.5 cm or more but not exceeding 23 cm in length, with an inner diameter of less than 0.65 cm and an outer diameter of less than 9 cm, one end having been angle-cut to form a spike, and having an integrated flange, less than 3 cm in diameter (splash guard) near the spike end and removable polyethylene caps on each end, put up in sterile packing (described in statistical reporting number 3917.29.0090)
- (6) Rectangular sheets of high-density or low-density polyethylene, 111.75 cm to 215.9 cm in width, and 152.4 cm to 304.8 cm in length, with a sticker attached to mark the center of each sheet, of a kind used in hospital or surgery center operating rooms (described in statistical reporting number 3920.10.0000)
- (7) Sheets and strips consisting of both cross-linked polyethylene and ethylene vinyl acetate, of a width greater than 1 m but not greater than 1.5 m, and a length greater than 1.75 m but not greater than 2.6 m (described in statistical reporting number 3921.19.0000)

- (8) Polyethylene sheet and film laminated with spunbond-spunbond-spunbond nonwoven polypropylene fabric, measuring 1.12 m or more but not over 1.52 m in width and 1.93 m or more but not over 2.29 m in length, and weighing 55 g/m² or more but not exceeding 88 g/m² (described in statistical reporting number 3921.90.1500)
- (9) Dispensers of hand-cleaning or hand-sanitizing solutions, whether employing a manual pump or a proximity-detecting battery-operated pump, each article weighing not more than 3 kg (described in statistical reporting number 8424.89.9000)

(iii) 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 20(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, as provided in heading 9903.88.66, 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) 3808.94.1000
- (2) 3808.94.5010
- (3) 3923.21.0095
- (4) 3926.20.9050
- (5) 4819.50.4060
- (6) 5603.12.0090
- (7) 5603.14.9090
- (8) 5603.92.0090
- (9) 5603.93.0090
- (10) 6505.00.8015
- (11) 8424.90.9080
- (12) Sodium metal (CAS No. 7440-23-5), in bulk solid form (described in statistical reporting number 2805.11.0000)
- (13) Disposable cloths of nonwoven textile materials impregnated, coated or covered with organic surface-active preparations for washing the skin, put up for retail sale (described in statistical reporting number 3401.30.5000)
- (14) Mixtures containing 2-(dimethylamino)ethanol (CAS No. 108-01-0) (described in statistical reporting number 3824.99.9297)
- (15) Silicon monoxide (SiO) (CAS No. 10097-28-6) in powder form (described in statistical reporting number 3824.99.9297)
- (16) Flexible gas sampling tubes, pipes and hoses, of polyvinyl chloride, with lock connectors at each end (described in statistical reporting number 3917.33.0000)

- (17) Flexible oxygen tubes, pipes and hoses presented with integrated molded connectors, of polyvinyl chloride (described in statistical reporting number 3917.33.0000)
- (18) Container units of plastics, each comprising a tub and lid therefore, configured or fitted for the conveyance, packing, or dispensing of wet wipes (described in statistical reporting number 3923.10.9000)
- (19) Sacks and bags of polymers of ethylene, reclosable, qualifying as Class 1 medical devices by the U.S. Food and Drug Administration under product code NNI (described in statistical reporting number 3923.21.0030)
- (20) Injection molded polypropylene plastic caps or lids each weighing not over 24 grams designed for dispensing wet wipes (described in statistical reporting number 3923.50.0000)
- (21) Hand pumps (other than for fuel or lubricants, not fitted or designed to be fitted with a metering device), each used to dispense a metered quantity of liquid soap or sanitizer (described in statistical reporting number 8413.20.0000)
- (22) Hand pumps for liquids (other than those of subheading 8413.11 or 8413.19) of acrylonitrile butadiene styrene (ABS) plastics (described in statistical reporting number 8413.20.0000)
- (23) Indicator panels incorporating LEDs, designed for use in medical infusion equipment (described in statistical reporting number 8531.20.0040)
- (24) Data input devices each with display capabilities of a kind used for magnetic resonance imaging (“MRI”) equipment, computed tomography (“CT”) equipment, intraoperative X-ray (“IXR”) equipment or patient monitors (described in statistical reporting number 8537.10.9170)
- (25) Compound binocular optical microscopes (other than stereoscopic microscopes and microscopes for photomicrography, cinemicrography or microprojection), each with magnification of 40X or more but not exceeding 1,000X, weighing not more than 3 kg (described in statistical reporting number 9011.80.0000)
- (26) Compound optical microscopes (other than stereoscopic microscopes and microscopes for photomicrography, cinemicrography or microprojection), each with magnification of 40X or more but not exceeding 400X, weighing not more than 15 kg (described in statistical reporting number 9011.80.0000)

“(iv) The U.S. Trade Representative determined to establish a process by which particular products classified in heading 9903.88.15 and provided for in U.S. notes 20(r) and (s) to this subchapter could be excluded from the additional duties imposed by heading 9903.88.15. See 84 Fed. Reg. 43304 (August 20, 2019), 84 Fed. Reg. 45821 (August 30, 2019), 84 Fed. Reg. 57144 (October 24, 2019) and 85 Fed. Reg. 3741 (January 22, 2020). Pursuant to the product exclusion process, the U.S. Trade Representative has determined that, as provided in heading 9903.88.66, the additional duties provided for in heading 9903.88.15 shall not apply to the following particular products, which are provided for in the following enumerated statistical reporting numbers:

- (1) 3401.19.0000
- (2) 3926.90.9910

- (3) 4818.90.0000 prior to July 1, 2020; 4818.90.0020 or 4818.90.0080 effective July 1, 2020
- (4) 5210.11.4040
- (5) 5210.11.6020
- (6) 5504.10.0000
- (7) 6210.10.5010
- (8) 6210.10.5090
- (9) 6307.90.7200
- (10) Face shields of transparent plastics, whether or not assembled (described in statistical reporting number 3926.90.9950)
- (11) Bowls of molded plastics, with clips for retaining guide wires during surgical procedures (described in statistical reporting number 3926.90.9990 prior to July 1, 2020; described in statistical reporting number 3926.90.9985 effective July 1, 2020)
- (12) Coverings, of plastics, designed to fit over wound sites or casts thereby forming a protective seal for keeping the covered area dry and debris free while showering or bathing (described in statistical reporting number 3926.90.9990 prior to July 1, 2020; described in statistical reporting number 3926.90.9985 effective July 1, 2020)
- (13) Disposable graduated medicine dispensing cups of plastics (described in statistical reporting number 3926.90.9990 prior to July 1, 2020; described in statistical reporting number 3926.90.9985 effective July 1, 2020)
- (14) Single-use sterile drapes and covers of plastics, of a kind used to protect the sterile field in surgical operating rooms (described in statistical reporting number 3926.90.9990 prior to July 1, 2020; described in statistical reporting number 3926.90.9985 effective July 1, 2020)
- (15) Sterile decanters of polystyrene plastics, each of a kind used to transfer aseptic fluids or medication to and from sterile bags, vials or glass containers (described in statistical reporting number 3926.90.9990 prior to July 1, 2020; described in statistical reporting number 3926.90.9985 effective July 1, 2020)
- (16) Cold packs consisting of a single-use, instant, endothermic chemical reaction cold pack combined with a textile exterior lining (described in statistical reporting number 6307.90.9889 prior to July 1, 2020; described in statistical reporting number 6307.90.9891 effective July 1, 2020)
- (17) Hot packs of textile material, single-use (exothermic chemical reaction) (described in statistical reporting number 6307.90.9889 prior to July 1, 2020; described in statistical reporting number 6307.90.9891 effective July 1, 2020)
- (18) Laparotomy sponges of cotton (described in statistical reporting number 6307.90.9889 prior to July 1, 2020; described in statistical reporting number 6307.90.9891 effective July 1, 2020)
- (19) Single-use blood pressure cuff sleeves of textile materials (described in statistical reporting number 6307.90.9889 prior to July 1, 2020; described in statistical reporting number 6307.90.9891 effective July 1, 2020)
- (20) Single-use stethoscope covers (described in statistical reporting number 6307.90.9889 prior to July 1, 2020; described in statistical reporting number 6307.90.9891 effective July 1, 2020)

- (21) Woven gauze sponges of cotton in square or rectangular sizes (described in statistical reporting number 6307.90.9889 prior to July 1, 2020; described in statistical reporting number 6307.90.9891 effective July 1, 2020)
 - (22) Protective Articles (described in statistical reporting number 9004.90.0000 prior to January 1, 2021; described in statistical reporting number 9004.90.0010 or 9004.90.0090 effective January 1, 2021)".
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 (13)” and by inserting “(13)” in lieu thereof; and
 - b. by inserting “; or (14) heading 9903.88.66 and U.S. note 20(sss)(i) to subchapter III of chapter 99” after the phrase “U.S. note 20(ooo) 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 (13)” and by inserting “(13)” in lieu thereof; and
 - b. by inserting “; or (14) heading 9903.88.66 and U.S. note 20(sss)(i) to subchapter III of chapter 99” after the phrase “U.S. note 20(ooo) to subchapter III of chapter 99”, where it appears at the end of the sentence.
 5. by amending the last sentence of the first paragraph of U.S. note 20(c) to subchapter III of chapter 99 by:
 - a. by deleting “or (7)” and by inserting “(7)” in lieu thereof; and
 - b. by inserting “; or (8) heading 9903.88.66 and U.S. note 20(sss)(ii) to subchapter III of chapter 99” after the phrase “U.S. note 20(ppp) to subchapter III of chapter 99”, where it appears at the end of the sentence.
 6. by amending U.S. note 20(d) to subchapter III of chapter 99 by:
 - a. by deleting “or (7)” and by inserting “(7)” in lieu thereof; and
 - b. by inserting “; or (8) heading 9903.88.66 and U.S. note 20(sss)(ii) to subchapter III of chapter 99” after the phrase “U.S. note 20(ppp) to subchapter III of chapter 99”, where it appears at the end of the sentence.
 7. by amending the last sentence of the first paragraph of U.S. note 20(e) to subchapter III of chapter 99 by:
 - a. by deleting “or (16)” and by inserting “(16)” in lieu thereof; and

- b. by inserting “; or (17) heading 9903.88.66 and U.S. note 20(sss)(iii) to subchapter III of chapter 99” after the phrase “U.S. note 20(qqq) to subchapter III of chapter 99”, where it appears at the end of the sentence.
- 8. by amending U.S. note 20(f) to subchapter III of chapter 99 by:
 - a. by deleting “or (16)” and by inserting “(16)” in lieu thereof; and
 - b. by inserting “; or (17) heading 9903.88.66 and U.S. note 20(sss)(iii) to subchapter III of chapter 99” after the phrase “U.S. note 20(qqq) to subchapter III of chapter 99”, where it appears at the end of the sentence.
- 9. by amending the last sentence of the first paragraph of U.S. note 20(r) to subchapter III of chapter 99:
 - a. by deleting “or (10)” and by inserting “(10)” in lieu thereof; and
 - b. by inserting “, or (11) heading 9903.88.66 and U.S. note 20(sss)(iv) to subchapter III of chapter 99” after “U.S. note 20(rrr) to subchapter III of chapter 99”.
- 10. by amending the article description of heading 9903.88.01:
 - a. by deleting “9903.88.60 or”;
 - b. by inserting in lieu thereof “9903.88.60,”; and
 - c. by inserting “or 9903.88.66,” after “9903.88.62,”.
- 11. by amending the article description of heading 9903.88.02:
 - a. by deleting “9903.88.61 or”;
 - b. by inserting in lieu thereof “9903.88.61,”; and
 - c. by inserting “or 9903.88.66,” after “9903.88.63,”.
- 12. by amending the article description of heading 9903.88.03:
 - a. by deleting “9903.88.56 or”;
 - b. by inserting in lieu thereof “9903.88.56,”; and
 - c. by inserting “or 9903.88.66,” after “9903.88.64,”.
- 13. by amending the article description of heading 9903.88.04:

- a. by deleting “9903.88.56 or”;
 - b. by inserting in lieu thereof “9903.88.56,” ; and
 - c. by inserting “or 9903.88.66” after “9903.88.64”.
14. by amending the article description of heading 9903.88.15:
- a. by deleting “9903.88.57 or” and by inserting “9903.88.57,” in lieu thereof; and
 - b. by inserting “or 9903.88.66,” after “9903.88.65,”.