

[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 the exclusion process in July 2018 and, to date, has granted ten sets of exclusions. The second set of exclusions was published in March 2019 and will expire in March 2020. On December 30, 2019, the U.S. Trade Representative established a process for the public to comment on whether to extend particular exclusions granted in March 2019 for up to 12 months. This notice announces the U.S. Trade Representative's determination to extend certain exclusions for 12 months.

DATES: The product exclusion extensions announced in this notice will apply as of March 25, 2020 and extend for one year. 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 Assistant General Counsels Philip Butler or 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 Annex to this notice, contact traderemedymail@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

A. Background

For background on the proceedings in this investigation, please see the prior notices issued in the investigation, including 82 FR 40213 (August 23, 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 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), and 85 FR 12373 (March 2, 2020).

Effective July 6, 2018, the U.S. Trade Representative imposed additional 25 percent duties on goods of China classified in 818 8-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 8-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 March 2019, the U.S. Trade Representative granted a set of exclusion requests, which expire on March 25, 2020. *See* 83 FR 67463 (the March 25 notice). On December 30, 2019, the U.S. Trade Representative invited the public to comment on whether to extend, by up to twelve months, particular exclusions granted in the March 25 notice. *See* 84 FR 72102 (the December 30 notice).

Under the December 30 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, the first half of 2018, and the first half of 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, the first half of 2018 and the first half of 2019; the commenter's gross revenue for 2018, the first half of 2018, and the first half of 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 or in opposition of the extending the exclusion.

The December 30 notice required the submission of comments no later than February 15, 2020.

B. Determination to Extend Certain Exclusions

Based on the evaluation of the factors set out in the July 11 notice and December 30 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 extend for 12 months certain product exclusions covered by the March 25 notice, as set out 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 concerning the 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 Annex, regardless of whether the importer filed an exclusion request. Further, the scope of each exclusion is governed by the scope of the 10-digit HTSUS headings and product descriptions in the Annex to this notice, and not by the product descriptions set out in any particular request for exclusion.

As set out in the Annex, the U.S. Trade Representative has determined to extend the following exclusions under U.S. note 20(i) to subchapter III of chapter 99 of the HTSUS: (1), (3), (5), (10), (13), (14), (15), (17), (19), (23) and (32).

Joseph Barloon
General Counsel
Office of the U.S. Trade Representative.

ANNEX

Pursuant to the product exclusion process, the U.S. Trade Representative has determined to extend the following exclusions granted under the March 25, 2019 notice under heading 9903.88.06 and U.S. note 20(i) to subchapter III of chapter 99 of the HTSUS:

- (1) 8412.21.0045
- (3) 8607.21.1000
- (5) Breast pumps, whether or not with accessories or batteries (described in statistical reporting number 8413.81.0040)
- (10) Machinery for filtering water, submersible, powered by batteries, manually operated, such machinery designed for use in pools, basins, aquariums, spas or similar contained bodies of water (described in statistical reporting number 8421.21.0000)
- (13) Hand-held ultraviolet water purifiers, powered by batteries (described in statistical reporting number 8421.21.0000)
- (14) Filters designed to remove sulfites from wine (described in statistical reporting number 8421.22.0000)
- (15) Filter housings, covers, or couplings, the foregoing of steel and comprising parts of machinery or apparatus for filtering liquids (described in statistical reporting number 8421.99.0040)
- (17) Vulcanized rubber tracks, each incorporating cords and cleats of steel, designed for use on construction equipment (described in statistical reporting number 8431.49.9095)
- (19) Automated data processing storage units (other than magnetic disk drive units), not assembled in cabinets for placing on a table or similar place, not presented with any other unit of a system (described in statistical reporting number 8471.70.6000)
- (23) Electric motors, AC, permanent split capacitor type, each in a housing with outside diameter of 84 mm or less, with output of 6 W or more but not exceeding 16 W (described in statistical reporting number 8501.10.4020)
- (32) 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)

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 July 6, 2018, and before March 25, 2021, the additional duties provided for in heading

9903.88.01 shall not apply to products which are provided for in heading 9903.88.06 and U.S. notes 20(i)(1), 20(i)(3), 20(i)(5), 20(i)(10), 20(i)(13), 20(i)(14), 20(i)(15), 20(i)(17), 20(i)(19), 20(i)(23) and 20(i)(32) to subchapter III of chapter 99 of the HTSUS.