

[Billing Code 3390-F2]

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

**Initiation of Four-Year Review Process: China's Acts, Policies, and Practices
Related to Technology Transfer, Intellectual Property, and Innovation**

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The U.S. Trade Representative is commencing the statutory four-year review of the two actions taken under Section 301 of the Trade Act of 1974, as amended, in the investigation of China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation. The two actions were effective, respectively, on July 6, 2018 and August 23, 2018, and subsequently were modified by imposing additional duties on supplemental lists of products, as well as by the temporary removal of duties on certain products through product exclusions. The first step in the four-year review process is notifying representatives of domestic industries which benefit from the trade actions, as modified, of the possible termination of the actions, and of the opportunity for these representatives to request continuation of the actions. Requests for continuation must be received in the 60-day window prior to the four-year anniversary of the respective action: between May 7, 2022, and July 5, 2022, for the July 6, 2018 action, and between June 24, 2022, and August 22, 2022, for the August 23, 2018, action. The Office of the United States Trade Representative (USTR) is opening dockets in these two time windows for representatives of domestic industries which benefit from the trade actions to request continuation of the corresponding trade actions, as modified. If the actions continue as a result of one or more requests from representatives of domestic

industries which benefit from the trade actions, USTR will proceed with the next phase of the review. The second phase of the review will be announced in one or more subsequent notices, and will provide opportunities for public comments from all interested parties.

DATES: For the July 6, 2018 trade action, the web portal at <https://comments.ustr.gov/s/> will open for requests to continue the action on May 7, 2022, and close at 11:59 pm on July 5, 2022. For the August 23, 2018 trade action, the web portal at <https://comments.ustr.gov/s/> will open for requests to continue the action on June 24, 2022, and close at 11:59 pm on August 22, 2022.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, contact Assistant General Counsels Megan Grimball or Philip Butler at (202) 395-5725.

SUPPLEMENTARY INFORMATION:

A. Background

On August 24, 2017, the U.S. Trade Representative initiated an investigation into certain acts, policies, and practices of the Government of China related to technology transfer, intellectual property, and innovation. 82 FR 40213.

In a notice published on April 6, 2018 (83 FR 14906), the U.S. Trade Representative announced a determination that the acts, policies, and practices of the Government of China covered in the investigation are unreasonable or discriminatory and burden or restrict U.S. commerce. The April 6 notice also invited public comment on a proposed action in the investigation, in the form of an additional 25 percent *ad valorem* duty on products of China classified in a list of 1,333 tariff subheadings, with an annual trade value of approximately \$50 billion.

1. Actions taken under Section 301 of the Trade Act.

Following a period of public notice and comment, the U.S. Trade Representative determined to take action under Section 301 of the Trade Act of 1974, as amended (Trade Act) (19 U.S.C. 2411) in the form of additional duties of 25 percent *ad valorem* on 818 of the proposed tariff subheadings, with an approximate annual trade value of \$34 billion, effective July 6, 2018 (List 1). 83 FR 28710 (hereinafter referred to as the July 6, 2018, action).

The U.S. Trade Representative also proposed further action in the form of additional ad valorem duties of 25 percent on a list of 284 tariff subheadings with an approximate annual trade value of \$16 billion. Following a period of notice and comment, the U.S. Trade Representative determined to take action under Section 301 in the form of additional duties of 25 percent on 279 tariff subheadings with an approximate annual trade value of \$16 billion, effective August 23, 2018 (List 2). 83 FR 40823 (hereinafter referred to as the August 23, 2018, action).

2. Subsequent Modifications under Section 307

The U.S. Trade Representative subsequently modified the July 6, 2018, and August 23, 2018, actions, pursuant to authority under Section 307(a) of the Trade Act. (19 U.S.C. 2417(a)). These modifications were in the form of (i) additional duties on supplemental lists of products, and (ii) the temporary removal of duties on certain products through product exclusions.

The modifications to the July 6, 2018, and August 23, 2018, actions that are currently in effect are as follows:

- a. List 3 – 83 FR 47974 (September 21, 2018), as modified by 84 FR 20459 (May 9, 2019), and as amended by 84 FR 21892 (May 15, 2019); 84 FR

26930 (June 10, 2019); 86 FR 22092 (April 26, 2021); and 84 FR 9785 (February 22, 2022);

- b. List 4A – 84 FR 43304 (August 20, 2019), as modified by 84 FR 45821 (August 30, 2019), 84 FR 69447 (December 18, 2019), and 85 FR 3741 (January 22, 2020);
- c. COVID Exclusions – 86 FR 63438 (November 16, 2021), as amended: by 86 FR 69350 (December 7, 2021) and 87 FR 4704 (January 28, 2022); and
- d. Reinstated Exclusions – 87 FR 17380 (March 28, 2022).

In the four-year review, USTR will examine the July 6, 2018, action, as modified, and August 23, 2018, action, as modified. To ensure comprehensive coverage of the review, USTR will consider the List 3 and List 4A modifications as applicable to both the July 6, 2018, action and August 23, 2018, action.

B. First Phase of the Four-Year Review

The first phase in the four-year review process involves notification to representatives of domestic industries which benefit from the two trade actions under Section 301, as modified, of the possible termination of the actions, and of the opportunity for these representatives to request continuation of the actions. *See* Section 307(c)(2) of the Trade Act (19 U.S.C. 2417(c)(2)). USTR is providing this notice by two different means. First, USTR is mailing notices to interested parties that previously submitted comments on the dockets in this investigation expressing support for the actions under Section 301 or subsequent modifications under Section 307. Second, by way of this notice, USTR is notifying all representatives of domestic industries which benefit from the two trade actions under Section 301, as modified, of the possible

termination of the actions, as modified, and of the opportunity for these representatives to request continuation of the actions. Regardless of the means of notification, representatives of domestic industries that benefit from either trade action under Section 301, as modified, should submit requests for continuation through the USTR portal, during the respective time periods for the July 6, 2018 action, and the August 23, 2018 action.

C. Notification To Representatives of Domestic Industries That Benefit From Either Trade Action Under Section 301.

USTR is providing the following notice to representatives of domestic industries which benefit from the July 6, 2018, action under Section 301, as modified, or the August 23, 2018, action under Section 301, as modified:

- Section 307(c)(1) of the Trade Act (19 U.S.C. 2417(c)(1)) provides that if—(A) a particular action has been taken under section 301 during any 4-year period, and (B) neither the petitioner nor any representative of the domestic industry which benefits from such action has submitted to the U.S. Trade Representative during the last 60 days of such 4-year period a written request for the continuation of such action, such action shall terminate at the close of such 4-year period.
- The investigation was self-initiated by the U.S. Trade Representative, and thus no petitioner is involved.
- This investigation involves two actions under Section 301: the July 6, 2018 action, as modified, and the August 23, 2018 action, as modified.

- Under Section 307(c)(1)(B) of the Trade Act (19 U.S.C. 2417(c)(1)(B)), the July 6, 2018 action under Section 301, as modified, and the August 23, 2018 action under Section 301, as modified, will terminate on their respective four-year anniversary dates (*i.e.*, July 6, 2022 and August 23, 2022, respectively) unless a representative of a domestic industry which benefits from the respective action submits in the 60-day period prior to the four-year anniversary of the respective action a request that the action continue.
- Representatives of a domestic industry which benefits from either of the two actions under Section 301, as modified, may submit a request for continuation of an action through the USTR portal, as detailed in this notice.
- Representatives of a domestic industry which benefits from both of the trade actions under Section 301, as modified, should submit two separate requests for continuation within the two respective 60-day time periods.

D. Submission of Requests to Continue the Action

Representatives of a domestic industry that benefits from either of the two actions under Section 301, as modified, may submit a request to continue the July 6, 2018 action, as modified, and the August 23, 2018 action, as modified, using the portal corresponding to the trade action at <https://comments.ustr.gov/s/>, according to the following schedule:

- For the July 6, 2018 action, any representative of a domestic industry which benefits from the action, as modified, may submit a request to continue the action between May 7, 2022, and July 5, 2022.

- For the August 23, 2018 action, any representative of domestic industries benefitting from the action, as modified, may submit a request to continue the action between June 24, 2022, and August 22, 2022.

Fields marked with an asterisk (*) are required fields. A request to continue the action should identify the specific industry concerned and should address how the domestic industry benefits from the July 6, 2018 action or August 23, 2018 action, as modified. If a representative of a domestic industry which benefits from an action wishes to receive business confidential treatment for its request to continue the action, please contact USTR at the number specified above. Requests to continue the action will not be posted immediately, but will be summarized in the notices announcing whether the two trade actions under Section 301 will be continued.

E . Second Phase of the Review

USTR will announce in subsequent notices whether it has received a request for continuation from a representative of a domestic industry which benefits from an action. If USTR receives such a request, the U.S. Trade Representative will announce the continuation of the action, and will undertake a review of the action as described in Section 307(c)(3) of the Trade Act (19 U.S.C. 2417(c)(3)). As part of that review, USTR intends to open a separate portal for interested persons to submit comments on, among other matters, the effectiveness of the action in achieving the objectives of Section 301, other actions that could be taken, and the effects of such actions on the United States economy, including consumers.

Greta Peisch
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Office of the United States Trade Representative.