

[Billing Code 3290-F0]

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Product Exclusions and Amendments: 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 exclusions.

SUMMARY: On August 20, 2019, at the direction of the President, the U.S. Trade Representative determined to modify the action being taken in the Section 301 investigation of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation by imposing additional duties of 10 percent *ad valorem* on goods of China with an annual trade value of approximately \$300 billion. The additional duties on products in List 1, which is set out in Annex A of that action, became effective on September 1, 2019. The U.S. Trade Representative initiated a product exclusion process in October 2019, and interested persons have submitted requests for the exclusion of specific products. This notice announces the U.S. Trade Representative's determination to grant certain exclusion requests, as specified in the Annex to this notice, and make certain amendments to previously announced exclusions.

DATES: The product exclusions announced in this notice apply as of September 1, 2019, the effective date of List 1 of the \$300 billion action, and extend to September 1, 2020.

FOR FURTHER INFORMATION CONTACT: For general questions about this notice, contact Associate General Counsels Philip Butler or Megan Grimball, 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 prior notices including: 82 FR 40213 (August 24, 2017), 83 FR 14906 (April 6, 2018), 83 FR 28710 (June 20, 2018), 83 FR 33608 (July 17, 2018), 83 FR 38760 (August 7, 2018), 83 FR 40823 (August 16, 2018), 83 FR 47974 (September 21, 2018), 83 FR 49153 (September 28, 2018), 84 FR 20459 (May 9, 2019), 84 FR 43304 (August 20, 2019), 84 FR 45821 (August 30, 2019), 84 FR 57144 (October 24, 2019), 84 FR 69447 (December 18, 2019), 85 FR 3741 (January 22, 2020), 85 FR 13970 (March 10, 2020), 85 FR 15244 (March 17, 2020), 85 FR 17936 (March 31, 2020), 85 FR 28693 (May 13, 2020), 85 FR 32098 (May 28, 2020), 85 FR 35975 (June 12, 2020), and 85 FR 41658 (July 10, 2020).

On August 20, 2019, the U.S. Trade Representative, at the direction of the President, announced a determination to modify the action being taken in the Section 301 investigation by imposing an additional 10 percent *ad valorem* duty on products of China with an annual aggregate trade value of approximately \$300 billion. 84 FR 43304 (August 20, 2019) (August 20 notice). The August 20 notice contains two lists of tariff subheadings, with two different effective dates. List 1, which is set out in Annex A of the August 20 notice, was effective September 1, 2019. List 2, which is set out in Annex C of the August 20 notice, was scheduled to take effect on December 15, 2019.

On August 30, 2019, the U.S. Trade Representative, at the direction of the President, determined to modify the action being taken in the investigation by increasing

the rate of additional duty from 10 to 15 percent *ad valorem* on the goods of China specified in Annex A (List 1) and Annex C (List 2) of the August 20 notice. *See* 84 FR 45821. Subsequently, the U.S. Trade Representative announced determinations suspending until further notice the additional duties on products set out in Annex C (List 2) and reducing the additional duties for the products covered in Annex A of the August 20 notice (List 1) to 7.5 percent. *See* 84 FR 69447, 85 FR 3741.

On October 24, 2019, the U.S. Trade Representative established a process by which U.S. stakeholders could request exclusion of particular products classified within an eight-digit Harmonized Tariff Schedule of the United States (HTSUS) subheading covered by List 1 of the \$300 billion action from the additional duties. *See* 84 FR 57144 (October 24 notice). Under the October 24 notice, requests for exclusion had to identify the product subject to the request in terms of the physical characteristics that distinguish the product from other products within the relevant eight-digit subheading covered by the \$300 billion action. Requestors also had to provide the ten-digit subheading of the HTSUS most applicable to the particular product requested for exclusion, and could submit information on the ability of U.S. Customs and Border Protection to administer the requested exclusion. Requestors were asked to provide the quantity and value of the Chinese-origin product that the requestor purchased in the last three years, among other information. With regard to the rationale for the requested exclusion, requests had to address the following factors:

- Whether the particular product is available only from China and specifically whether the particular product and/or a comparable product is available from sources in the United States and/or third countries.

- Whether the imposition of additional duties on the particular product would cause severe economic harm to the requestor or other U.S. interests.
- Whether the particular product is strategically important or related to “Made in China 2025” or other Chinese industrial programs.

The October 24 notice stated that the U.S. Trade Representative would take into account whether an exclusion would undermine the objectives of the Section 301 investigation.

The October 24 notice required submission of requests for exclusion from List 1 of the \$300 billion action no later than January 31, 2020, and noted that the U.S. Trade Representative periodically would announce decisions. In March 2020, the U.S. Trade Representative granted an initial set of exclusion requests. *See* 85 FR 13970. The U.S. Trade Representative granted additional exclusions in March, May, June and July 2020. *See* 85 FR 15244, 85 FR 17936, 85 FR 28693, as modified by 85 FR 32098, 85 FR 35975 and 85 FR 41658. The Office of the United States Trade Representative regularly updates the status of each pending request on the Exclusions Portal at <https://exclusions.ustr.gov/s/docket?docketNumber=USTR-2019-0017>.

B. Determination to Grant Certain Exclusions

Based on the evaluation of the factors set out in the October 24 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 grant the product exclusions 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 on the pertinent exclusion requests.

As set out in the Annex, the exclusions are reflected in 11 existing ten-digit HTSUS subheadings and 53 specially prepared product descriptions, which together respond to 242 separate exclusion requests.

In accordance with the October 24 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 ten-digit HTSUS subheading as described in the Annex, and not by the product descriptions set out in any particular request for exclusion.

Paragraph A, subparagraphs (3)-(4) of the Annex contain conforming amendments to the HTSUS reflecting the modifications made by the Annex.

Paragraph B, subparagraphs (1)-(5) of the Annex contain technical corrections to address periodic revisions to the HTSUS subheadings in previously published exclusions.

The U.S. Trade Representative will continue to issue determinations on pending requests on a periodic basis.

Joseph Barloon
General Counsel
Office of the United States Trade Representative.

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 September 1, 2019, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS) is modified:

1. by inserting the following new heading 9903.88.53 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 | |
| “9903.88.53 | Articles the product of China, as provided for in U.S. note 20(fff) 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(fff) to subchapter III of chapter 99 in numerical sequence:

“(fff) 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 9903.88.53, 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) 0505.10.0055
- 2) 5504.10.0000
- 3) 8215.99.3500
- 4) 9506.70.4000
- 5) 9701.10.0000
- 6) 9702.00.0000

- 7) 9703.00.0000
- 8) 9705.00.0085
- 9) 9706.00.0020
- 10) 9706.00.0040
- 11) 9706.00.0060
- 12) Sodium alginate resins (CAS No. 9005-38-3) (described in statistical reporting number 3913.10.0000)
- 13) Boot hangers of plastics and steel, each designed to hold one pair of boots, presented with couplers of plastics to link two or more boot hangers vertically (described in statistical reporting number 3924.90.5650)
- 14) Exterior doors having outer faces of plastics with foamed plastics insulation between those faces, each measuring at least 213 cm but not more than 245 cm in height, at least 80 cm but not more than 95 cm in width and not more than 45 mm in thickness (described in statistical reporting number 3925.20.0010)
- 15) Clamps and clips of molded plastics, each with a fastener or adhesive backing for affixing a cord or cable to a flat surface (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) Molded shells of plastics, each measuring at least 11.1 cm but not more than 11.7 cm in length and at least 7.9 cm but not more than 8.6 cm in width, weighing at least 38 g but not more than 42 g, having two drilled holes (one near the midpoint of each long side and in horizontal alignment with each other), of a kind used to form a housing for an earphone (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)
- 17) Sets of three polyvinyl chloride-coated foam pads, of plastics, of a kind used to assemble flotation work vests by passing adjustable straps with buckles through slots in the pads, each set comprising two irregularly shaped front/side pads and one rectangular back pad (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)
- 18) Women's knit robes in chief weight of cotton, with hook and loop tab closure (described in statistical reporting number 6108.91.0030)
- 19) Babies' gowns of cotton knitted interlock fabric, each with sleeves, neck opening and elasticized bottom opening (described in statistical reporting number 6111.20.6070)
- 20) Babies' sleep sacks, knitted, of cotton, each with neck opening and two-way zipper (described in statistical reporting number 6111.20.6070)
- 21) Babies' sleep sacks of cotton interlock knitted fabric, sleeveless, each with neck opening and two-way zipper (described in statistical reporting number 6111.20.6070)
- 22) Babies' swaddle sacks of cotton knitted interlock fabric, each with sleeves and mitten cuffs (described in statistical reporting number 6111.20.6070)

- 23) Babies' blanket sleepers of polyester knitted fleece, sleeveless, each with two-way zipper (described in statistical reporting number 6111.30.5015)
- 24) Men's and boys' cotton terry bathrobes with muslin trim, each beltless but featuring a hook-and-loop tab (described in statistical reporting number 6207.91.1000)
- 25) Women's cotton terry bathrobes with muslin trim, each beltless but featuring a hook-and-loop tab (described in statistical reporting number 6208.91.1010)
- 26) Girls' cotton terry bathrobes with muslin trim, each beltless but featuring a hook-and-loop tab (described in statistical reporting number 6208.91.1020)
- 27) Girls' fleece bathrobes, each beltless but featuring a hook-and-loop tab (described in statistical reporting number 6208.92.0020)
- 28) Blankets (other than electric blankets) of cotton, woven, each measuring at least 116 cm but not more than 118 cm on an edge (described in statistical reporting number 6301.30.0010)
- 29) Blankets (other than electric blankets) of cotton, other than woven, each measuring at least 116 cm but not more than 118 cm on an edge (described in statistical reporting number 6301.30.0020)
- 30) Crib sheets of muslin cotton, fitted with elastic (described in statistical reporting number 6302.31.9020)
- 31) Protective covers of cotton for pillows, not knitted or crocheted, of cotton, not napped or printed, each with full encasement construction and zipper opening (described in statistical reporting number 6302.31.9040)
- 32) Oven mitts, not knitted or crocheted, of cotton, each incorporating a hanging loop, measuring at least 16 cm but not more than 19 cm in width by at least 29 cm but not more than 32 cm in length (described in statistical reporting number 6304.92.0000)
- 33) Handrail covers for spas and pools, the foregoing composed of 95 percent polyester and 5 percent spandex by weight, each measuring at least 60 cm but not more than 306 cm in length (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)
- 34) Outdoor shelters, each comprising a canopy of textiles, a folding frame and a carrying case with wheels (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)
- 35) Athletic, recreational and sporting headgear (other than of reinforced or laminated plastics), each with an inner protective suspension system and a sun visor, each weighing not more than 500 g and designed for off-road use with bicycles (described in statistical reporting number 6506.10.6045)
- 36) Folding helmets of injected plastic parts, each measuring not more than 85 mm in thickness when folded, weighing not more than 525 g (described in statistical reporting number 6506.10.6075)

- 37) Fittings of galvanized steel, including but not limited to support frames, wings, legs, connector and sign supports, all of which are parts of retail display fixtures (described in statistical reporting number 8302.42.3065)
- 38) Electric snowblowers, corded or cordless, each weighing not more than 46 kg, with a motor not more than 15 A, wheeled (described in statistical reporting number 8430.20.0060)
- 39) Cylindrical steel drives specially designed for adjusting color on machines that print on corrugated paper and paperboard, each article measuring at least 8 mm but not more than 9 mm in diameter and at least 2.5 mm but not more than 3 mm in length, and each article weighing at least 12 kg but not more than 14.1 kg (described in statistical reporting number 8443.91.3000)
- 40) Cylindrical steel drives specially designed to control color registration (alignment) and material tension on printing machinery, each drive measuring at least 155 mm but not more than 160 mm in diameter and at least 165 mm but not more than 170 mm in length, weighing at least 3 kg but not more than 4 kg (described in statistical reporting number 8443.91.3000)
- 41) Electrical automated embroidery machines capable of being programmed by an operator at a machine control console and also capable of saving or loading digital programming commands through a USB port or a local area network connection, each machine having at least two but not more than eight parallel-operating multi-thread embroidery heads and a single liquid-crystal display (“LCD”) panel with a video display diagonal measuring at least 160 mm but not more than 170 mm and associated control panel (described in statistical reporting number 8447.90.5000)
- 42) Cast iron covers for hand-operated gate valves (described in statistical reporting number 8481.90.3000)
- 43) Iron or steel bodies of hand-operated disc (or disk) valves (described in statistical reporting number 8481.90.3000)
- 44) Steel parts of hand-operated gate valves (described in statistical reporting number 8481.90.3000)
- 45) Lithium-ion batteries consisting of cases of base metal containing 18650 individual lithium-ion battery cells, such batteries having a total capacity of at least 60 but not more than 200 watt hours, with at least one USB Type-C port, at least one USB Type-A port, at least one wireless charging pad and a digital screen that displays the power conditions of the battery (described in statistical reporting number 8507.60.0020)
- 46) Lithium-ion batteries consisting of cases of base metal containing 18650 individual lithium-ion battery cells, such batteries having a total capacity of at least at least 90 but not more than 6,500 watt hours, with at least one AC outlet, at least one USB port, at least one female barrel port and a digital screen that displays the power conditions of the battery (described in statistical reporting number 8507.60.0020)
- 47) Electric coffee makers of a kind used for domestic purposes, DC powered via a USB cable, each weighing not more than 0.5 kg (described in statistical reporting number 8516.71.0020)

- 48) Wireless communication apparatus that can receive audio data to be distributed to wireless speakers (described in statistical reporting number 8518.22.0000)
- 49) Fuse-type incandescent tungsten-filament lamps, designed for a voltage of 12 V or more but not exceeding 14 V, each measuring not more than 7 mm in diameter and not more than 32 mm in length (described in statistical reporting number 8539.29.3050)
- 50) Headlight brackets of aluminum, for motorcycles, each measuring not more than 34 cm by 29 cm by 19 cm, weighing not more than 2 kg (described in statistical reporting number 8714.10.0050)
- 51) Electric guitar kits, each consisting of all of the parts necessary to construct an electric guitar (described in statistical reporting number 9207.90.0040)
- 52) Parts of music synthesizers of heading 9207, comprising specially designed printed circuit assemblies for affecting the characteristics or qualities of sound (described in statistical reporting number 9209.94.8000)
- 53) Pre-charged pneumatic ("PCP") air rifles, each measuring at least 101 cm but not more than 115 cm in length, weighing at least 2.8 kg but not more than 3.5 kg (described in statistical reporting number 9304.00.2000)
- 54) Modular diving boards, suitable for mounting on boats or docks (described in statistical reporting number 9506.29.0080)
- 55) Swim masks, snorkeling masks, snorkels and water fins (described in statistical reporting number 9506.29.0080)
- 56) Balance trainers of plastics, each measuring not more than 120 cm in length by 45 cm in width by 27 cm in height, containing an air bladder (described in statistical reporting number 9506.91.0030)
- 57) Exercise machines of steel, each measuring at least 157 cm but not more than 158 cm in length, at least 152 cm but not more than 153 cm in width and at least 88 cm but not more than 90 cm in height, of a kind specifically designed to train the gluteal muscles (described in statistical reporting number 9506.91.0030)
- 58) Push-up exercise machines, each consisting of an aluminum extrusion with hard plastic end-caps, a hard plastic center divider, two sliding handles of hard plastics and rubber and a sliding adjustment plate (described in statistical reporting number 9506.91.0030)
- 59) Brushes of natural goat hair bristles, which are in lengths of at least 30 mm but not more than 33 mm, enclosed in a plastic protective holder, for cleaning optical lenses (described in statistical reporting number 9603.90.8050)
- 60) Porous-tipped markers for applying liquid chalk (described in statistical reporting number 9608.20.0000)
- 61) Gold coins of numismatic (collector's) interest, 250 years or more in age, of Chinese origin (described in statistical reporting number 9705.00.0010)
- 62) Numismatic (collector's) coins (other than archaeological pieces and other than of gold), 250 years or more in age (described in statistical reporting number 9705.00.0040)
- 63) Gold coins of numismatic (collector's) interest, less than 250 years in age, of Chinese origin (described in statistical reporting number 9705.00.0050)

- 64) Coins of Chinese origin and of numismatic (collector's) interest, of any metal other than of gold, less than 250 years in age (described in statistical reporting number 9705.00.0065)"
3. by amending the last sentence of the first paragraph of U.S. note 20(r):
 - a. by deleting "or (6)" and by inserting "(6)" in lieu thereof; and
 - b. by inserting "; or (7) heading 9903.88.53 and U.S. note 20(fff) to subchapter III of chapter 99" after "U.S. note 20(ddd) to subchapter III of chapter 99".
 4. by amending the article description of heading 9903.88.15:
 - a. by deleting "9903.88.49 or" and by inserting "9903.88.49," in lieu thereof; and
 - b. by inserting "or 9903.88.53" after "9903.88.51".
- B. 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 September 1, 2019, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS) is modified:
1. U.S. note 20(ddd)(15) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting "(described in statistical reporting number 6307.90.9889)" and inserting "(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)" in lieu thereof.
 2. U.S. note 20(ddd)(16) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting "(described in statistical reporting number 6307.90.9889)" and inserting "(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)" in lieu thereof.
 3. U.S. note 20(ddd)(17) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting "(described in statistical reporting number 6307.90.9889)" and inserting "(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)" in lieu thereof.
 4. U.S. note 20(ddd)(18) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting "(described in statistical reporting number 6307.90.9889)" and inserting "(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)" in lieu thereof.

5. U.S. note 20(ddd)(19) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “(described in statistical reporting number 6307.90.9889)” and inserting “(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)” in lieu thereof.