

[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 10 sets of exclusions under the \$34 billion action. The fifth set of exclusions was published in June 2019 and will expire in June 2020. On March 20, 2020, the U.S. Trade Representative established a process for the public to comment on whether to extend particular exclusions granted in June 2019 for up to 12 months. This notice announces the U.S. Trade Representative's determination to extend certain exclusions through December 31, 2020.

DATES: The product exclusion extensions announced in this notice will apply as of June 4, 2020, and extend through December 31, 2020. 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 prior notices 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 43304 (August 20, 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), 85 FR 12373 (March 2, 2020), 85 FR 16181 (March 20, 2020), and 85 FR 24081 (April 30, 2020).

Effective July 6, 2018, the U.S. Trade Representative imposed additional 25 percent duties on goods of China classified in 818 eight-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 eight-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 June 2019, the U.S. Trade Representative granted a set of exclusion requests, which expire on June 4, 2020. *See* 84 FR 25895 (the June 4 notice). On March 20, 2020, the U.S. Trade Representative invited the public to comment on whether to extend by up to 12 months, particular exclusions granted in the June 4 notice. *See* 85 FR 16181 (the March 20 notice).

Under the March 20 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 March 20 notice required the submission of comments no later than April 30, 2020.

B. Determination to Extend Certain Exclusions

Based on evaluation of the factors set out in the July 11 notice and March 20 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 certain product exclusions covered by the June 4 notice, as set out in the Annex to this notice.

The March 20 notice provided that the U.S. Trade Representative would consider extensions of up to 12 months. In light of the cumulative effect of current and possible future exclusions or extensions of exclusions on the effectiveness of the action taken in this investigation, the U.S. Trade Representative has determined to extend the exclusions in the Annex to this notice for less than 12 months – through December 31, 2020. To date, the U.S. Trade Representative has granted more than 6,200 exclusion requests, has extended some of these exclusions, and may consider further extensions of exclusions. Furthermore, more than 8,600 requests are pending on the products covered by the action taken on August 20, 2019. The U.S. Trade Representative will take account of the cumulative effect of exclusions in considering the possible further extension of the exclusions covered by this notice, as well as possible extensions of exclusions of other products covered by the action in this investigation. The U.S. Trade Representative’s

determination also takes into account advice from advisory committees and any public comments concerning 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 ten-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, through December 31, 2020, the following exclusions granted under the June 4, 2019 notice under heading 9903.88.10 and under U.S. note 20(m) to subchapter III of chapter 99 of the HTSUS: (3), (6), (9), (13), (14), (22), (24), (28), (34), (42), (50), (51), (52), (53), (62), and (88).

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

**ANNEX FOR EXTENSIONS OF CERTAIN PRODUCT EXCLUSIONS
FROM THE FIFTH ROUND OF EXCLUSIONS FROM TRANCHE 1**

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 June 4, 2020 and before 11:59 p.m. eastern daylight time on December 31, 2020, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS) is modified:

1. by inserting the following new heading 9903.88.50 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	
“9903.88.50	Effective with respect to entries on or after June 4, 2020, and through December 31, 2020, articles the product of China, as provided for in U.S. note 20(ccc) 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(ccc) to subchapter III of chapter 99 in numerical sequence:

“(ccc) 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. 28710 (June 20, 2018) and 83 Fed. Reg. 32181 (July 11, 2018). Pursuant to the product exclusion process, the U.S. Trade Representative has determined that, as provided in heading 9903.88.50, 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) Oil well and oil field crank-balanced, long-stroke and beam pumps (described in statistical reporting number 8413.50.0010)
- (2) Centrifugal pumps, submersible, other than for use with machines for making cellulosic pulp, paper or paperboard; the foregoing pumps rated not over 15 kW (described in statistical reporting number 8413.70.2004)
- (3) Submersible pump incorporating a magnetic drive motor (described in statistical reporting number 8413.70.2004)

- (4) Centrifugal pumps designed for eliminating condensate, the foregoing not elsewhere specified or included (described in statistical reporting number 8413.70.2090)
- (5) Housings for water pumps of subheading 8413.30.90 (described in statistical reporting number 8413.91.9010)
- (6) Solar water heaters incorporating glass tube heat collectors and including glass tubes and stands with tanks (described in statistical reporting number 8419.19.0040)
- (7) Heat exchanger plates, cores, finned tubes, cones, shells, bonnets, flanges and baffles (described in statistical reporting number 8419.90.3000)
- (8) Garage door opener/closers (described in statistical reporting number 8428.90.0290)
- (9) Pile drivers, diesel powered (described in statistical reporting number 8430.10.0000)
- (10) Welded frames designed to support conveyor rollers (described in statistical reporting number 8431.39.0010)
- (11) Coupling covers, including center members, flanged hubs, sleeves and shoes (described in statistical reporting number 8483.90.8010)
- (12) AC multi-phase motors, each of an output exceeding 300 kW but not exceeding 310 kW, fitted with pulleys and brakes to raise and lower passenger elevators (described in statistical reporting number 8501.53.8040)
- (13) Regenerative speed drive controllers for controlling speed of electric motors for elevators (described in statistical reporting number 8504.40.4000)
- (14) Speed drive controllers for electric motors, each such controller measuring 100 mm or more but not over 130 mm in length, 40 mm or more but not over 125 mm in width and 24 mm or more but not over 85 mm in height (described in statistical reporting number 8504.40.4000)
- (15) Projector parts (described in statistical reporting number 8529.90.9900)
- (16) 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)”

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 (8)” and by inserting “(8)” in lieu thereof; and
- b. by inserting “; or (9) heading 9903.88.50 and U.S. note 20(ccc) to subchapter III of chapter 99” after the phrase “U.S. note 20(x) to subchapter III of chapter 99”, where it appears at the end of the sentence.

4. by amending the first sentence of U.S. note 20(b) to subchapter III of chapter 99 by:

- c. by deleting “or (8)” and by inserting “(8)” in lieu thereof; and

- d. by inserting “; or (9) heading 9903.88.50 and U.S. note 20(ccc) to subchapter III of chapter 99” after the phrase “U.S. note 20(x) to subchapter III of chapter 99”, where it appears at the end of the sentence.
5. by amending the Article Description of heading 9903.88.01:
- e. by deleting “9903.88.14, or”;
 - f. by inserting in lieu thereof “9903.88.14,”; and
 - g. by inserting “or 9903.88.50,” after “9903.88.19,”.