



[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:** The initial set of exclusions from the additional duties imposed in this investigation are scheduled to expire on December 28, 2019. On October 31, 2019, the U.S. Trade Representative established a process for the public to comment on whether to extend particular exclusions 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 December 28, 2019 and extend for one year.

**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 [traderemedym@cbp.dhs.gov](mailto:traderemedym@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), and 84 FR 58427 (October 31, 2019).

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 December 2018, the U.S. Trade Representative granted an initial set of exclusion requests, which are scheduled to expire on December 28, 2019. *See* 83 FR 67463 (the December 28 notice). On October 31, 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 December 28 notice. *See* 84 FR 58427 (the October 31 notice).

Under the October 31 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 October 31 notice required the submission of comments no later than November 30, 2019.

## **B. Determination to Extend Certain Exclusions**

Based on the information received in response to the October 31 notice, an evaluation of the factors set out in the July 11 notice and October 31 notice, which are summarized above, and in accordance with the advice of the interagency Section 301 Committee, the U.S. Trade Representative has determined, pursuant to sections 301(b),

301(c), and 307(a) of the Trade Act of 1974, as amended, to extend for 12 months certain product exclusions covered by the December 28 notice. As set out in the Annex to this notice, the U.S. Trade Representative has determined to extend the following exclusions under U.S. note 20(h) to subchapter III of chapter 99 of the HTSUS: (2), (7), (11), (29), (30), and (31). U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

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.

**Joseph Barloon,**

*General Counsel,*

*Office of the U.S. Trade Representative.*

## ANNEX

The U.S. Trade Representative has determined to extend the following exclusions granted under the December 28, 2018 notice under heading 9903.88.05 and U.S. note 20(h) to subchapter III of chapter 99 of the HTSUS:

- (2) 8418.69.0120
- (7) 8525.60.1010
- (11) Roller machines with dies for embossing paper, manually powered (described in statistical reporting number 8420.10.9080)
- (29) Angle cock handle assemblies, of iron and steel, each measuring 11.43 cm by 21.59 cm by 5.08 cm and weighing 0.748 kg (described in statistical reporting number 8481.90.9040)
- (30) Radiation therapy systems, each encased by steel-based structural shell with gantry cover comprising three pairs of plastics-based panels (described in statistical reporting number 9022.14.0000)
- (31) Thermostats designed for air conditioning or heating systems, not designed to connect to the internet, the foregoing designed for wall mounting (described in statistical reporting number 9032.10.0030)

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 December 28, 2020, the additional duties provided for in heading 9903.88.01 shall not apply to products which are provided for in heading 9903.88.05 and U.S. notes 20(h)(2), 20(h)(7), 20(h)(11), 20(h)(29), 20(h)(30) and 20(h)(31) to subchapter III of chapter 99 of the HTSUS.

