



[Billing Code 3290-F9]

**OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE**

**Notice of Product Exclusions: 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:** Effective July 6, 2018, the U.S. Trade Representative (Trade Representative) imposed additional duties on goods of China with an annual trade value of approximately \$34 billion (the \$34 billion action) 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 Trade Representative's determination included a decision to establish a product exclusion process. The Trade Representative initiated the exclusion process in July 2018, and stakeholders have submitted requests for the exclusion of specific products. In December 2018, March 2019, April 2019, and May 2019, the Trade Representative granted exclusion requests. This notice announces the Trade Representative's determination to grant additional exclusion requests, as specified in the Annex to this notice. The Trade Representative will continue to issue decisions on pending requests on a periodic basis.

**DATES:** The product exclusions announced in this notice will apply as of the July 6, 2018 effective date of the \$34 billion action, and will extend for one year after the publication of this notice. 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 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](mailto: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 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 65198 (December 19, 2018), 83 FR 67463 (December 28, 2018), 84 FR 7966 (March 5, 2019), 84 FR 11152 (March 25, 2019), 84 FR 16310 (April 18, 2019), and 84 FR 21389 (May 14, 2019).

Effective July 6, 2018, the 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 Trade Representative's determination included a decision to establish a process by which U.S. stakeholders may request exclusion of particular products classified within an 8-digit HTSUS subheading covered by the \$34 billion action from the additional duties. The 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).

Under the July 11 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 8-digit subheading covered by the \$34 billion action. Requestors also had to provide the 10-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. 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 July 11 notice stated that the Trade Representative would take into account whether an exclusion would undermine the objective of the Section 301 investigation.

The July 11 notice required submission of requests for exclusion from the \$34 billion action no later than October 9, 2018, and noted that the Trade Representative would periodically announce decisions. In December 2018, the Trade Representative granted an initial set of exclusion requests. *See* 83 FR 67463. The Trade Representative granted a second, third, and fourth set of exclusions in March 2019, April 2019, and May

2019. *See* 84 FR 11152, 84 FR 16310, and 84 FR 21389. The Office of the United States Trade Representative regularly updates the status of each pending request and posts the status at <https://ustr.gov/issue-areas/enforcement/section-301-investigations/section-301-china/section-301-exclusion-process>.

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

Based on the evaluation of the factors set out in the July 11 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 Trade Representative has determined to grant the product exclusions set out in the Annex to this notice. The 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 to this notice, the exclusions are established in two different formats: (1) as an exclusion for an existing 10-digit subheading from within an 8-digit subheading covered by the \$34 billion action, or (2) as an exclusion reflected in specially prepared product descriptions. In particular, the exclusions take the form of one 10-digit HTSUS subheading, and 88 specially prepared product descriptions.

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 product descriptions in the Annex to this notice, and not by the product descriptions set out in any particular request for exclusion.

The exclusions in the Annex cover approximately 464 separate exclusion requests: the excluded 10-digit subheading covers 40 separate requests, and the 88 specially prepared product descriptions cover approximately 424 separate requests.

Paragraph A, subparagraphs (3) – (5) are conforming amendments to the HTSUS reflecting the modification made by the Annex to this notice.

As stated in the July 11 notice, the exclusions will apply as of the July 6, 2018 effective date of the \$34 billion action, and extend for one year after the publication of this notice. U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

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

Joseph Barloon,  
General Counsel,  
Office of the U.S. 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 July 6, 2018, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS) is modified:
1. by inserting the following new heading 9903.88.10 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	
“9903.88.10	Articles the product of China, as provided for in U.S. note 20(m) 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(m) to subchapter III of chapter 99 in numerical sequence:

“(m) 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 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) 8537.10.8000
- (2) Parts of nonaircraft gas turbines, other than rotors, spindles, rotor assemblies, spindle assemblies or steel forgings (described in statistical reporting number 8411.99.9085)
- (3) Oil well and oil field crank-balanced, long-stroke and beam pumps (described in statistical reporting number 8413.50.0010)

- (4) Radial piston hydraulic fluid pumps weighing not over 500 grams (described in statistical reporting number 8413.50.0070)
- (5) Centrifugal pumps, submersible, designed for use in apparatus for supplying water to pets (described in statistical reporting number 8413.70.2004)
- (6) Centrifugal pumps, submersible, other than for use with machines for making cellulosic pulp, paper or paperboard; the foregoing pumps rated not over 1.5 kW (described in statistical reporting number 8413.70.2004)
- (7) Submersible dual port pump designed for use in swimming pools (described in statistical reporting number 8413.70.2004)
- (8) Submersible pump designed for use in aquariums, not over 325 mm tall (described in statistical reporting number 8413.70.2004)
- (9) Submersible pump incorporating a magnetic drive motor (described in statistical reporting number 8413.70.2004)
- (10) Submersible pumps, rated not over 1 horsepower, designed for use in pumping raw sewage (described in statistical reporting number 8413.70.2004)
- (11) Sump pumps, submersible, rated not over 1 horsepower, activated by float switch (described in statistical reporting number 8413.70.2004)
- (12) Centrifugal pumps, not for use with machines for making cellulosic pulp, paper or paperboard, not submersible, the foregoing single-stage, single-suction, close-coupled and with discharge outlet under 5.1 cm in diameter (described in statistical reporting number 8413.70.2005)
- (13) Centrifugal pumps designed for eliminating condensate, the foregoing not elsewhere specified or included (described in statistical reporting number 8413.70.2090)
- (14) Housings for water pumps of subheading 8413.30.90 (as described in subheading 8413.91.9010)
- (15) Impellers for water pumps of subheading 8413.30.90 (described in statistical reporting number 8413.91.9010)
- (16) Hydraulic pump positioning piston assemblies (described in statistical reporting number 8413.91.9060)
- (17) Plastic reservoirs for motor vehicle brake master cylinders (described in statistical reporting number 8413.91.9060)
- (18) Airend assemblies, inlet guide vanes, air-ends, compressor baseplates and backplates (described in statistical reporting number 8414.90.4190)

- (19) Stand-alone icemaking machines, each having a rated capacity not exceeding 160 kg per day, capable of producing ice in pieces not larger than 40 cubic cm in any dimension (described in statistical reporting number 8418.69.0110)
- (20) Assemblies of thermo-electric modules, whether or not presented with attached heat exchangers, fans, shrouds, temperature sensors or controllers (described in statistical reporting number 8418.69.0180)
- (21) Coolers, non-compressor, powered by 12 V DC, each with an interior volume not exceeding 17 liters (described in statistical reporting number 8418.69.0180)
- (22) Solar water heaters incorporating glass tube heat collectors and including glass tubes and stands with tanks (described in statistical reporting number 8419.19.0040)
- (23) Distillation and rectifying equipment designed for use in the production of methylene diphenyl diisocyanate (described in statistical reporting number 8419.40.0080)
- (24) Heat exchanger plates, cores, finned tubes, cones, shells, bonnets, flanges and baffles (described in statistical reporting number 8419.90.3000)
- (25) Cast steel and steel structural forms designed for use in filtering machines, such machines used in mining or manufacturing facilities (described in statistical reporting number 8421.99.0080)
- (26) Parts of air filtering machines or apparatus, the foregoing of cast steel and steel (described in statistical reporting number 8421.99.0080)
- (27) Self-propelled fork-lift and platform trucks, each powered by an electric motor and controlled by walking operator (described in statistical reporting number 8427.10.8090)
- (28) Garage door opener/closers (described in statistical reporting number 8428.90.0290)
- (29) Hinged steel transfer machinery, designed for diverting goods from and to conveyor lines (described in statistical reporting number 8428.90.0290)
- (30) Rotating bench, electrically powered, designed for turning a workpiece in a production line (described in statistical reporting number 8428.90.0290)
- (31) Rotating fork machines, designed for lifting and depositing coiled steel bars in a production line (described in statistical reporting number 8428.90.0290)
- (32) Vibratory, self-propelled tamping machines, each with drum roller (described in statistical reporting number 8429.40.0020)

- (33) New, track-mounted hydraulic backhoes or hydraulic shovels, each with a 360-degree revolving superstructure (described in statistical reporting number 8429.52.1010)
- (34) Pile drivers, diesel powered (described in statistical reporting number 8430.10.0000)
- (35) Belt conveyor crossmember assemblies (described in statistical reporting number 8431.39.0010)
- (36) Conveyor roller support brackets (described in statistical reporting number 8431.39.0010)
- (37) Carriers designed for holding motor vehicles in overhead conveyors (described in statistical reporting number 8431.39.0010)
- (38) Catenary idler stringers (described in statistical reporting number 8431.39.0010)
- (39) Conveyor belt assemblies incorporating bearings (described in statistical reporting number 8431.39.0010)
- (40) Conveyor line pans, the foregoing parts suitable for use solely or principally with coal mine conveyors (described in statistical reporting number 8431.39.0010)
- (41) Conveyor spill plates (described in statistical reporting number 8431.39.0010)
- (42) Welded frames designed to support conveyor rollers (described in statistical reporting number 8431.39.0010)
- (43) Feed pushers, bale forks, scrapers and frames therefor (described in statistical reporting number 8431.49.9010)
- (44) Complete sheet pile rolling mills (described in statistical reporting number 8455.22.0000)
- (45) Rolling mills designed to form 4 to 5 ribbed metal panels not exceeding 95 cm wide (described in statistical reporting number 8455.22.0000)
- (46) Double row ball bearings having an inner diameter exceeding 15 mm but not exceeding 32 mm, an outer diameter exceeding 38 mm but not exceeding 64 mm and a width exceeding 15 mm but not exceeding 29 mm (described in statistical reporting number 8482.10.5060)
- (47) Needle roller bearings of a width not exceeding 30 mm (described in statistical reporting number 8482.40.0000)
- (48) Outer bearing rings (described in statistical reporting number 8482.99.0500)

- (49) Bearing shields (described in statistical reporting number 8482.99.6595)
- (50) Coupling covers, including center members, flanged hubs, sleeves and shoes (described in statistical reporting number 8483.90.8010)
- (51) 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)
- (52) Regenerative speed drive controllers for controlling speed of electric motors for elevators (described in statistical reporting number 8504.40.4000)
- (53) 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 8404.40.4000)
- (54) Speed drive controllers for electric motors, the foregoing operating at 250 A or more but not over 500 A (described in statistical reporting number 8504.40.0000)
- (55) Variable frequency drive controllers for electric motors, each weighing more than 1 kg but not more than 11 kg (described in statistical reporting number 8504.40.4000)
- (56) Printed circuit assemblies of the goods of subheading 8504.40 or 8504.50 for telecommunication apparatus, each measuring 4 cm to 6 cm in width and 10 cm to 12 cm in length, that converts 36 V DC to 90 V AC (described in statistical reporting number 8504.90.6500)
- (57) Printed circuit assemblies of the goods of subheading 8504.40 or 8504.50 for telecommunication apparatus, each measuring 7 cm to 9 cm in width and 18 cm to 20 cm in length, having 2 switches, for power protection to prevent electrical back feeding (described in statistical reporting number 8504.90.6500)
- (58) Printed circuit assemblies of the goods of subheading 8504.40 or 8504.50 for telecommunication apparatus, the foregoing serving as controllers for power supplies, each measuring 5 cm to 7 cm in width and 11 cm to 14 cm in length, having 50 pin on side header (described in statistical reporting number 8504.90.6500)
- (59) Printed circuit assemblies of the goods of subheading 8504.40 or 8504.50 for telecommunication apparatus, the foregoing serving as noise filters, each measuring 18 cm to 20 cm in width and 25 cm to 27 cm in length, populated with semiconductor devices and 4 heat sinks (described in statistical reporting number 8504.90.6500)

- (60) Radio transceivers operating on frequencies from 46 MHz to 468 MHz, each designed for installation in motor vehicles (described in statistical reporting number 8525.60.1050)
- (61) Antennas, of base metal and fiberglass (described in statistical reporting number 8529.10.4040)
- (62) Projector parts (described in statistical reporting number 8529.90.9900)
- (63) Electromechanical relays, for a voltage not exceeding 24 V, other than automotive flashers, with contacts rated at 10 A or more, measuring not over 80 mm in any dimension (described in statistical reporting number 8536.41.0050)
- (64) Push-button switches, rated at over 5 A, measuring no more than 14.4 cm by 11.6 cm by 6.4 cm (described in statistical reporting number 8536.50.9035)
- (65) Push-button switches, rated at over 5 A, measuring no more than 14.6 cm by 8 cm by 14.1 cm (described in statistical reporting number 8536.50.9035)
- (66) Push-button switches, rated at over 5 A, measuring no more than 19.1 cm by 8.3 cm by 14.1 cm (described in statistical reporting number 8536.50.9035)
- (67) Push-button switches, rated at over 5 A, measuring no more than 19.7 cm by 11.8 cm by 8.3 cm (described in statistical reporting number 8536.50.9035)
- (68) Push-button switches, rated at over 5 A, measuring no more than 19.7 cm by 9.8 cm by 16.5 cm (described in statistical reporting number 8536.50.9035)
- (69) Push-button switches, rated at over 5 A, measuring no more than 21 cm by 13.3 cm by 9 cm (described in statistical reporting number 8536.50.9035)
- (70) Push-button switches, rated at over 5 A, measuring no more than 23.5 cm by 8 cm by 13.1 cm (described in statistical reporting number 8536.50.9035)
- (71) Push-button switches, rated at over 5 A, measuring no more than 6 cm by 14.1 cm by 11 cm (described in statistical reporting number 8536.50.9035)
- (72) Push-pull switches, for a voltage not exceeding 1,000 V, designed for use in motor vehicles (described in statistical reporting number 8536.50.9065)
- (73) Bullet connectors, for a voltage not exceeding 1,000 V (described in statistical reporting number 8536.90.4000)
- (74) Butt connectors, other than closed end, for a voltage not exceeding 1,000 V (described in statistical reporting number 8536.90.4000)
- (75) Closed-end butt connectors, for a voltage not exceeding 1,000 V (described in statistical reporting number 8536.90.4000)

- (76) Crimp connectors, for a voltage not exceeding 1,000 V (described in statistical reporting number 8536.90.4000)
- (77) Insulated tab electrical connectors and tab receptacle electrical connectors, for a voltage not exceeding 1,000 V, crimp-type, with either a tab measuring not over 6.4 mm in width or a receptacle for tabs measuring not over 6.4 mm in width (described in statistical reporting number 8536.90.4000)
- (78) Junction blocks, for a voltage not exceeding 1,000 V (described in statistical reporting number 8536.90.4000)
- (79) Lug connectors, for a voltage not exceeding 1,000 V (described in statistical reporting number 8536.90.4000)
- (80) Ring connectors, for a voltage not exceeding 1,000 V (described in statistical reporting number 8536.90.4000)
- (81) Spade connectors, for a voltage not exceeding 1,000 V (described in statistical reporting number 8536.90.4000)
- (82) Spring clip ("alligator clip") terminals, for a voltage not exceeding 1,000 V (described in statistical reporting number 8536.90.4000)
- (83) Terminal blocks, for a voltage not exceeding 1,000 V (described in statistical reporting number 8536.90.4000)
- (84) Wire tap connectors, for a voltage not exceeding 1,000 V (described in statistical reporting number 8536.90.4000)
- (85) Magnesium anodes, each not exceeding 48 kg in weight (described in statistical reporting number 8543.30.9040)
- (86) Disposable self-adhesive brain monitoring sensor patches for use with an oximeter, each incorporating a circuit board, light-emitting diode (LED), photo diodes and memory device and a connector (described in statistical reporting number 9018.19.9560)
- (87) Disposable stainless steel subdermal needle electrodes with accompanying harness for use with electromyography (EMG) equipment (described in statistical reporting number 9018.19.9560)
- (88) 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)
- (89) Machines for testing the hardness of metals (described in statistical reporting number 9024.10.0000)"

3. by amending the last sentence of the first paragraph of U.S. note 20(a) to subchapter III of chapter 99 by:
  - a. deleting the word “or” where it appears after the phrase “U.S. note 20(j) to subchapter III of chapter 99;” and
  - b. inserting “; or (5) heading 9903.88.10 and U.S. note 20(m) to subchapter III of chapter 99” after the phrase “U.S. note 20(k) 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:
  - a. deleting the word “or” where it appears after the phrase “U.S. note 20(j) to subchapter III of chapter 99;” and
  - b. inserting “; or (5) heading 9903.88.10 and U.S. note 20(m) to subchapter III of chapter 99” after the phrase “U.S. note 20(k) 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:
  - a. by deleting “9903.88.07 or”;
  - b. by inserting in lieu thereof “9903.88.07, ”; and
  - c. by inserting “or 9903.88.10,” after “9903.88.08,”.

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