



[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 and amendments.

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's determination included a decision to establish a product exclusion process. The U.S. Trade Representative initiated the exclusion process in July 2018, and stakeholders have submitted requests for the exclusion of specific products. In December 2018, and March, April, May, June, July, September, October, and December 2019, the U.S. Trade Representative granted exclusion requests. This notice announces the U.S. Trade Representative's determination to grant additional exclusions, as specified in the Annex to this notice, and makes amendments to certain notes in the Harmonized Tariff Schedule of the United States (HTSUS). The U.S. Trade Representative will continue to issue decisions as necessary.

DATES: The product exclusions will apply as of the July 6, 2018 effective date of the \$34 billion action, and will extend to October 1, 2020 at 11:59 p.m. EDT. The amendments announced in this notice are retroactive to the date the original exclusions were published and do not further extend the period for the original exclusions. 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 Counsel Philip Butler 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 traderemedy@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 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), 84 FR 21389 (May 14, 2019), 84 FR 25895 (June 4, 2019), 84 FR 32821 (July 9, 2019), 84 FR 49564 (September 20, 2019), 84 FR 52567 (October 2, 2019), and 84 FR 69016 (December 17, 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 HTSUS, with an approximate annual trade value of \$34 billion. *See* 83 FR 28710. 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).

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 U.S. 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 U.S. Trade Representative

periodically would announce decisions. In December 2018, the U.S. Trade Representative granted an initial set of exclusion requests. *See* 83 FR 67463. The U.S. Trade Representative granted additional exclusions in March, April, May, June, July, September, October, and December 2019. *See* 84 FR 11152, 84 FR 16310, 84 FR 21389, 84 FR 25895, 84 FR 32821, 84 FR 49564, 84 FR 52567 and 84 FR 69016.

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 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 request.

Exclusions from the duties have been 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. The exclusions announced in this notice take the form of four specially prepared product descriptions.

In accordance with the July 11 notice, the exclusions are available for any products that meet the descriptions in the Annex, regardless of whether the importer filed an exclusion request. Furthermore, the scope of the exclusions are governed by the scope of the 10-digit HTSUS subheadings and product descriptions in the Annex, and not by the product descriptions set out in any particular request for exclusion.

C. Amendments to Certain Exclusions

The Annex also makes technical amendments to certain notes in the HTSUS. Subparagraphs B(1–26) clarify periodic revisions in U.S. notes 20(i)(6–7), 20(m)(16–18), 20(m)(27), 20(n)(13–27), 20(n)(30), 20(q)(19–21), and 20(x)(20) to subchapter III of chapter 99 of the HTSUS, as set out in the Annexes of the notices published at 84 FR 11153 (March 25, 2019), 84 FR 25895 (June 4, 2019), 84 FR 32821 (July 9, 2019), 84 FR 49564 (September 20, 2019), and 84 FR 52567 (October 2, 2019).

In order to correct typographical or other ministerial errors, subparagraphs B(27–29) of the Annex make amendments to U.S. notes 20(n)(86), 20(q)(102), and 20(q)(170) to subchapter III of chapter 99 of the HTSUS, as set out in the Annexes of the notices published at 84 FR 32821 (July 9, 2019) and 84 FR 49564 (September 20, 2019).

The U.S. Trade Representative will continue to issue determinations on a periodic basis as needed.

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, and before October 2, 2020, U.S. note 20(x) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS) is modified by inserting the following exclusions in numerical order after exclusion (93):

(94) Centrifugal pumps, submersible, designed for use in artificial lift systems for extracting oil and gas (described in statistical reporting number 8413.70.2004)

(95) Pistons and housings for hydraulic fluid power pumps of the type used in power lawn mowers (described in statistical reporting number 8413.91.9050 prior to January 1, 2019; described in statistical reporting number 8413.91.9060 effective January 1, 2019)

(96) Furnace roll end-shafts of steel (described in statistical reporting number 8417.90.0000)

(97) Multi-phase AC motors of an output of at least 5.8 kW but not exceeding 14.92 kW, each assembled with planetary gears and a gearbox (described in statistical reporting number 8501.52.4000)

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 July 6, 2018:

1. U.S. note 20(i)(6) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “or described in statistical reporting number 8413.91.9095, post January 1, 2019” and inserting “; described in statistical reporting number 8413.91.9095, January 1, 2019, through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020” in lieu thereof.
2. U.S. note 20(i)(7) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “or described in statistical reporting number 8413.91.9095, post January 1, 2019” and inserting “; described in statistical reporting number 8413.91.9095, January 1, 2019, through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020” in lieu thereof.
3. U.S. note 20(m)(16) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “8413.91.9060” and inserting “8413.91.9050 prior to January 1, 2019; described in statistical reporting number 8413.91.9060 effective January 1, 2019” in lieu thereof.
4. U.S. note 20(m)(17) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “8413.91.9060” and

- inserting “8413.91.9050 prior to January 1, 2019; described in statistical reporting number 8413.91.9060 effective January 1, 2019” in lieu thereof.
5. U.S. note 20(m)(18) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “8414.90.4190” and inserting “8414.90.4175 prior to July 1, 2018; described in statistical reporting number 8414.90.4190 effective July 1, 2018” in lieu thereof.
 6. U.S. note 20(m)(27) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “8427.10.8070 and 8427.10.8095” and inserting “8427.10.8090 prior to July 1, 2019; described in statistical reporting number 8427.10.8070 or 8427.10.8095 effective July 1, 2019” in lieu thereof.
 7. U.S. note 20(n)(13) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “8413.91.9095” and inserting “8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020” in lieu thereof.
 8. U.S. note 20(n)(14) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “8413.91.9095” and inserting “8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting numbers 8413.91.9065, 8413.91.9085 or 8413.91.9096 effective January 1, 2020” in lieu thereof.
 9. U.S. note 20(n)(15) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “8413.91.9095” and inserting “8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020” in lieu thereof.
 10. U.S. note 20(n)(16) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “8413.91.9095” and inserting “8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020” in lieu thereof.
 11. U.S. note 20(n)(17) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “8413.91.9095” and inserting “8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020” in lieu thereof.
 12. U.S. note 20(n)(18) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “8413.91.9095” and inserting “8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019;

- described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020” in lieu thereof.
13. U.S. note 20(n)(19) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “8413.91.9095” and inserting “8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020” in lieu thereof.
 14. U.S. note 20(n)(20) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “8413.91.9095” and inserting “8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020” in lieu thereof.
 15. U.S. note 20(n)(21) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “8413.91.9095” and inserting “8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020” in lieu thereof.
 16. U.S. note 20(n)(22) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “8413.91.9095” and inserting “8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020” in lieu thereof.
 17. U.S. note 20(n)(23) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “8413.91.9095” and inserting “8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020” in lieu thereof.
 18. U.S. note 20(n)(24) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “8413.91.9095” and inserting “8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020” in lieu thereof.
 19. U.S. note 20(n)(25) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “8413.91.9095” and inserting “8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020” in lieu thereof.
 20. U.S. note 20(n)(26) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “8413.91.9095” and

- inserting “8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020” in lieu thereof.
21. U.S. note 20(n)(27) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “8413.91.9095” and inserting “8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020” in lieu thereof.
 22. U.S. note 20(n)(30) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “(described in statistical reporting number 8427.20.8090)” and inserting “(described in statistical reporting number 8427.20.8000 prior to July 1, 2019; described in statistical reporting number 8427.20.8090 effective July 1, 2019)” in lieu thereof.
 23. U.S. note 20(q)(19) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “8413.91.9095” and inserting “8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9085 or 8413.91.9096 effective January 1, 2020” in lieu thereof.
 24. U.S. note 20(q)(20) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “8413.91.9095” and inserting “8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting numbers 8413.91.9065, 8413.91.9085 or 8413.91.9096 effective January 1, 2020” in lieu thereof.
 25. U.S. note 20(q)(21) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “8413.91.9095” and inserting “8413.91.9080 prior to January 1, 2019; described in statistical reporting number 8413.91.9095 effective January 1, 2019 through December 31, 2019; described in statistical reporting number 8413.91.9096 effective January 1, 2020” in lieu thereof.
 26. U.S. note 20(x)(20) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “statistical note 1 to chapter 84” and inserting “statistical note 1 to chapter 84 effective July 1, 2019, to December 31, 2019, or in statistical note 2 to chapter 84 effective January 1, 2020” in lieu thereof, and deleting “8427.10.8020” and inserting “8427.10.8010 prior to July 1, 2019; described in statistical reporting number 8427.10.8020 effective July 1, 2019” in lieu thereof.
 27. U.S. note 20(n)(86) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “18” and inserting “39” in lieu thereof.
 28. U.S. note 20(q)(102) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “Cold-chamber die casting machines having a maximum casting volume of 52.78 m³, a die height of 0.4 m or

more but not exceeding 1 m, and a maximum die locking force of 8,400 kN” and inserting “Die casting machines with casting volume not to exceed 5,278 cm³, die height of not less than 360 mm but not more than 1,000 mm, and die locking force of not less than 6,600 kN but not more than 8,400 kN” in lieu thereof.

29. U.S. note 20(q)(170) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “8.9 kW or more but not exceeding 12 kW” and inserting “12 W or more but not exceeding 16 W” in lieu thereof.

[FR Doc. 2020-02684 Filed: 2/10/2020 8:45 am; Publication Date: 2/11/2020]