



[Billing Code 3290-F0]

## **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:** In September of 2018, the U.S. Trade Representative imposed additional duties on goods of China with an annual trade value of approximately \$200 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 a product exclusion process in June 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 makes amendments to certain notes in the Harmonized Tariff Schedule of the United States (HTSUS).

**DATES:** The product exclusions announced in this notice will apply as of September 24, 2018, the effective date of the \$200 billion action, to August 7, 2020. The amendments announced in this notice are retroactive to the date the original exclusions were published.

**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 [traderemedycbp@dhs.gov](mailto:traderemedycbp@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 47974 (September 21, 2018), 83 FR 49153 (September 28, 2018), 83 FR 65198 (December 19, 2018), 84 FR 7966 (March 5, 2019), 84 FR 20459 (May 9, 2019), 84 FR 29576 (June 24, 2019), 84 FRN 38717 (August 7, 2019), 84 FR 46212 (September 3, 2019), 84 FR 49591 (September 20, 2019), 84 FR 57803 (October 28, 2019), 84 FR 61674 (November 13, 2019), 84 FR 65882 (November 29, 2019), 84 FR 69012 (December 17, 2019), 85 FR 549 (January 6, 2020), and 85 FR 6674 (February 5, 2020).

Effective September 24, 2018, the U.S. Trade Representative imposed additional 10 percent duties on goods of China classified in 5,757 full and partial subheadings of the Harmonized Tariff Schedule of the United States (HTSUS), with an approximate annual trade value of \$200 billion. *See* 83 FR 47974, as modified by 83 FR 49153. In May 2019, the U.S. Trade Representative increased the additional duty to 25 percent. *See* 84 FR 20459. On June 24, 2019, the Trade Representative established a process by which U.S. stakeholders may request exclusion of particular products classified within an 8-digit HTSUS subheading covered by the \$200 billion action from the additional duties. *See* 84 FR 29576 (the June 24 notice).

Under the June 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 8-digit subheading covered by the \$200 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 June 24 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 June 24 notice required submission of requests for exclusion from the \$200 billion action no later than September 30, 2019, and noted that the U.S. Trade Representative would periodically announce decisions. In August 2019, the U.S. Trade Representative granted an initial set of exclusion requests. *See* 84 FR 38717. The U.S. Trade Representative granted additional exclusions in September 2019, October 2019,

November 2019, December 2019, January 2020, and February 2020. *See* 84 FR 49591, 84 FR 57803, 84 FR 61674, 84 FR 65882, 84 FR 69012, 85 FR 549, and 85 FR 6674.

The Office of the United States Trade Representative regularly updates the status of each pending request on the USTR Exclusions Portal at

<https://exclusions.ustr.gov/s/docket?docketNumber=USTR-2019-0005>.

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

Based on the evaluation of the factors set forth in the June 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 forth 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 forth in the Annex, the exclusions are reflected in one 10-digit HTSUS subheading, which cover 6 requests, and 46 specially prepared product descriptions, which cover 61 exclusion requests.

In accordance with the June 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 product descriptions in the Annex, and not by the product descriptions found in any particular request for exclusion.

Paragraph A, subparagraphs (3)-(7) of the Annex contain conforming amendments to the HTSUS reflecting the modifications made by the Annex. Paragraph B

of the Annex contains amendments reflecting technical corrections to the specially prepared product descriptions in certain notes to the HTSUS, specifically U.S. note 20(ll)(68), published at 84 FR 57803 (October 28, 2019), U.S. note 20(mm)(6), published at 84 FR 61674 (November 13, 2019), and U.S. note 20(nn)(30), published at 84 FR 65882 (November 29, 2019).

As stated in the September 20, 2019 notice, the exclusions will apply from September 24, 2018, to August 7, 2020. U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

The U.S. 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 September 24, 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 9903.88.40 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	
“9903.88.40	Articles the product of China, as provided for in U.S. note 20(ss) 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(ss) to subchapter III of chapter 99 in numerical sequence:

“(ss) The U.S. Trade Representative determined to establish a process by which particular products classified in heading 9903.88.03 and provided for in U.S. notes 20(e) and (f) to this subchapter could be excluded from the additional duties imposed by heading 9903.88.03, and by which particular products classified in heading 9903.88.04 and provided for in U.S. note 20(g) to this subchapter could be excluded from the additional duties imposed by heading 9903.88.04. See 83 Fed. Reg. 47974 (September 21, 2018) and 84 Fed. Reg. 29576 (June 24, 2019). Pursuant to the product exclusion process, the U.S. Trade Representative has determined that the additional duties provided for in heading 9903.88.03 or in heading 9903.88.04 shall not apply to the following particular products, which are provided for in the enumerated statistical reporting numbers:

- 1) 6505.00.8015
- 2) Titanium dioxide (CAS No. 13463-67-7) (described in statistical reporting number 2823.00.0000)

- 3) D-Ribose (CAS No. 50-69-1) (described in statistical reporting number 2940.00.6000)
- 4) Mechanical articles for motor vehicles, of vulcanized rubber other than hard rubber, each comprising a guide or a stopper for a sunroof or sunshade and weighing not more than 4 g (described in statistical reporting number 4016.99.6010)
- 5) Stuff sacks with outer surface of textiles of man-made fibers, each measuring 77.5 cm or more but not over 127.7 cm in circumference, cylindrical in shape with a single compartment, a drawstring closure at one end and a strap at the other end of the sack (described in statistical reporting number 4202.92.3131)
- 6) Covers, of leather, designed for use with telecommunication devices (described in statistical reporting number 4205.00.8000)
- 7) Two-layer wood flooring consisting of a non-coniferous wood veneer measuring at least 0.6 mm but not more than 1.2 mm in thickness laminated to a single-layer base of fiberboard, each board measuring at least 9 cm but not more than 21 cm in width, at least 35 cm but not more than 1.9 m in length and at least 5 mm but not more than 12 mm in thickness (described in statistical reporting number 4412.99.5105)
- 8) Desk accessories of medium density fiberboard, painted or stained, including but not limited to desk organizers, letter trays, business card holders, incline files, pencil cups, note holders, corner shelves, monitor risers, magazine holders, book ends and storage caddies, each weighing at least 0.06 kg but not more than 5.5 kg, measuring at least 10 cm but not more than 35 cm in length, at least 4 cm but not more than 43 cm in width and at least 4.5 cm or more but not more than 30 cm in height (described in statistical reporting number 4420.90.8000)
- 9) Fabrics wholly of cotton, unbleached, plain weave, weighing not more than 100 g/m<sup>2</sup>, of numbers 43 to 68 ("cheesecloth"), 3-layer folded and crimped, less than 28 cm wide after folding and crimping, compliant with standards of Aerospace Management Services (AMS) (described in statistical reporting number 5208.11.4090)
- 10) Fabrics wholly of cotton, bleached, plain weave, weighing not more than 100 g/m<sup>2</sup>, of numbers 43 to 68 ("cheesecloth"), compliant with standards of Aerospace Management Services (AMS) (described in statistical reporting number 5208.21.4090)
- 11) Woven fabrics of synthetic filament yarn, dyed, weighing more than 280 g/m<sup>2</sup> but not more than 420 g/m<sup>2</sup> (described in statistical reporting number 5407.92.2090)
- 12) Sheeting fabrics containing less than 85 percent by weight of artificial staple fibers, mixed mainly or solely with cotton, such artificial staple fibers derived from wood, printed (described in statistical reporting number 5516.44.0022)

- 13) Non-woven fabrics of polyethylene terephthalate (PET), in sheets measuring not more than 160 cm by 250 cm, weighing more than 1,800 g/m<sup>2</sup> but not more than 3,000 g/m<sup>2</sup> (described in statistical reporting number 5603.94.9090)
- 14) Fabrics wholly of polyester, warp knit, bonded to a plain weave backing fabric, measuring not more than 141 cm in width, weighing over 271 g/m<sup>2</sup>, of a kind used to upholster furniture (described in statistical reporting number 6001.92.0010)
- 15) Knitted or crocheted fabrics of artificial staple fibers derived from bamboo (described in statistical reporting number 6003.40.6000)
- 16) Fabrics wholly of polyester, warp knit, printed, bonded to a woven backing wholly of polyester, weighing not less than 290 g/m<sup>2</sup> but not more than 500 g/m<sup>2</sup>, of a kind used to upholster furniture (described in statistical reporting number 6005.39.0080)
- 17) Portable outdoor cookers, each consisting of a burner and stand made from steel and cast iron, two or more pots with fitted strainer baskets, a rack suitable for supporting and lifting out large food items and an adjustable pressure regulator/hose combination for connecting the burner to a portable container of LP, put up for retail sale (described in statistical reporting number 7321.11.1060)
- 18) Sewer hose supports constructed of flat strips of aluminum measuring 0.3 cm in thickness and riveted together to extend and retract accordion-style, each not exceeding 4.6 m when extended and weighing not more than 1.5 kg (described in statistical reporting number 7616.99.5150)
- 19) Clamp edge components of aluminum, with injection molded clamp heads and levers, measuring not less than 60 cm but not more than 127 cm in length, with extensions to 254 cm in length (described in statistical reporting number 7616.99.5190)
- 20) Shovels of aluminum, each of adjustable length measuring not less than 65 cm but not more than 85 cm, weighing less than 1 kg (described in statistical reporting number 8201.10.0000)
- 21) Automotive polishing attachments specially designed for use with a hand-held drill, each attachment including a 9.5 mm steel drive shaft, internal gear assembly, transverse hand brace and rotating disk components (described in statistical reporting number 8207.90.7585)
- 22) Articulating video monitor wall mounting assemblies of steel and aluminum, each weighing not less than 4 kg but not more than 7 kg (described in statistical reporting number 8302.50.0000)
- 23) Fuel filters for internal combustion engines, each consisting of a cylindrical case of plastics with an internal mesh filter measuring not more than 8 cm in length and not more than 5.5 cm in diameter (described in statistical reporting number 8421.23.0000)

- 24) Digital electronic scales (other than counting scales or retail scales) having a maximum weighing capacity not exceeding 30 kg (described in statistical reporting number 8423.81.0040)
- 25) Jacks of steel with zinc coating for supporting the tongues of trailers, each measuring not less than 60 cm in retracted condition and not less than 85 cm in extended condition, with a maximum width of 17 cm and a maximum load capacity of 455 kg (described in statistical reporting number 8425.49.0000)
- 26) Lottery ticket vending terminals, each terminal including a touchscreen monitor, barcode scanner, Wi-fi/Ethernet/Bluetooth connectivities, six USB ports, two LAN ports and two serial ports (described in statistical reporting number 8470.90.0190)
- 27) Hand-operated flat-back gate valves of cast iron, designed for use with irrigation canals, diversion ditches and the like (described in statistical reporting number 8481.80.3010)
- 28) Hand-operated spigot-back gate valves of cast iron, for irrigation canals, diversion ditches and the like (described in statistical reporting number 8481.80.3010)
- 29) AC motors, single phase, each of an output exceeding 74.6 W but not exceeding 335 W, measuring not more than 13 cm in diameter and not more than 13 cm in height and with a shaft measuring not more than 39 cm in length (described in statistical reporting number 8501.40.4040)
- 30) 48 V rectifiers for telecommunications wireline and wireless apparatus, each with output of not less than 2,400 W but not more than 3,000 W, measuring not more than 45 mm by 105 mm by 330 mm, weighing not more than 2 kg (described in statistical reporting number 8504.40.8500)
- 31) 48 V rectifiers for telecommunications wireline and wireless apparatus, each with output of not less than 4,000 W but not more than 4,600 W, measuring not more than 165 mm by 95 mm by 305 mm, weighing not more than 4 kg (described in statistical reporting number 8504.40.8500)
- 32) 48 V rectifiers for telecommunications wireline and wireless apparatus, each with output of not more than 1,200 W output, measuring not more than 50 mm by 90 mm by 260 mm, weighing not more than 1 kg (described in statistical reporting number 8504.40.8500)
- 33) Power supplies for cable networks, that convert 120 V/60 Hz AC input to either 63 V AC or 87 V AC output, each measuring not more than 200 mm by 425 mm by 270 mm and weighing not more than 27.5 kg, containing printed circuit board assemblies, a transformer, and an oil filled capacitor (described in statistical reporting number 8504.40.8500)
- 34) Power supplies for cable networks, that converts 120 V/60 Hz AC or 230 V/50 Hz AC input to 63 V AC or 87 V AC output, each measuring not more than 220 mm by 244 mm by 200 mm and weighing not more than 12 kg (described in statistical reporting number 8504.40.8500)

- 35) Power supplies for fiber optic communications equipment, that convert 120-240 V AC to 12 V DC, each measuring no more than 170 mm by 200 mm by 115 mm and having four LED indicators (described in statistical reporting number 8504.40.8500)
- 36) Quad output power modules with cut-outs on one side for air flow, each containing a printed circuit board and 4 LED indicators, with external dimensions measuring not more than 361 mm by 125 mm by 75 mm, each weighing not more than 1 kg (described in statistical reporting number 8504.40.8500)
- 37) Power supplies with a power output exceeding 150 W but not exceeding 180 W, 120 V, each measuring no more than 90 mm by 395 mm by 625 mm (described in statistical reporting number 8504.40.9530)
- 38) Power supplies, each with 120 V AC input and output, measuring not more than 485 mm by 385 mm by 260 mm, weighing not more than 15 kg, to provide not more than 660 W of power in an uninterruptible manner in the event that a normal source of power fails (described in statistical reporting number 8504.40.9540)
- 39) Power supplies, each with 120 V AC input and output, measuring not more than 530 mm by 355 mm by 205 mm, weighing not more than 20 kg, to provide not more than 2,000 W of power in an uninterruptible manner in the event that a normal source of power fails (described in statistical reporting number 8504.40.9540)
- 40) Electrical inverters (other than rectifiers, power supplies for automatic data processing equipment or for telecommunications apparatus), each measuring not more than 190 mm by 160 mm by 255 mm, weighing not more than 2.5 kg (described in statistical reporting number 8504.40.9570)
- 41) Tags for acousto-magnetic security systems (described in statistical reporting number 8531.90.9001)
- 42) Cable lugs of copper, for a voltage not exceeding 1,000 V, each measuring at least 12 mm but not more than 155 mm in length (described in statistical reporting number 8536.69.8000)
- 43) Printed circuit board assemblies, for a voltage not exceeding 1,000 V, each measuring 3 mm by 169 mm by 137.5 mm, presented with four relays mounted down the center of the assembly and fitted with connectors (described in statistical reporting number 8537.10.9150)
- 44) Electric conductors for a voltage not exceeding 300 V, insulated with polyvinyl chloride (PVC), each fitted with connectors, measuring not less than 200 mm and not more than 1.2 m in length (described in statistical reporting number 8544.42.9090)
- 45) Toddler beds of wood, with bars to keep toddler from falling out (described in statistical reporting number 9403.50.9042)
- 46) Fireplace mantels or surrounds of wood (described in statistical reporting number 9403.60.8081)

47) Parts of office furniture, each consisting of a modular table base and support of base metals, with electric height adjustment mechanism, weighing not more than 40 kg (described in statistical reporting number 9403.90.8041)”

3. by amending the last sentence of the first paragraph of U.S. note 20(e) to subchapter III of chapter 99:
  - a. by deleting the word “or” where it appears after the phrase “U.S. note 20(pp) to subchapter III of chapter 99;”; and
  - b. by inserting the phrase “; or (9) heading 9903.88.40 and U.S. note 20(ss) to subchapter III of chapter 99” after the phrase “U.S. note 20(qq) to subchapter III of chapter 99”.
  
4. by amending U.S. note 20(f) to subchapter III of chapter 99;
  - a. by deleting the word “or” where it appears after the phrase “U.S. note 20(pp) to subchapter III of chapter 99;”; and
  - b. by inserting the phrase “; or (9) heading 9903.88.40 and U.S. note 20(ss) to subchapter III of chapter 99” after the phrase “U.S. note 20(qq) to subchapter III of chapter 99”.
  
5. by amending the first sentence of U.S. note 20(g) to subchapter III of chapter 99:
  - a. by deleting “or” where it appears after “U.S. note 20(pp) to subchapter III of chapter 99;”; and
  - b. by inserting “; or (6) heading 9903.88.40 and U.S. note 20(qq) to subchapter III of chapter 99” after “U.S. note 20(qq) to subchapter III of chapter 99”.
  
6. by amending the Article Description of heading 9903.88.03:
  - a. by deleting “9903.88.37 or” and inserting “9903.88.37” in lieu thereof; and
  - b. by inserting “or 9903.88.40,” after “9903.88.38,”.
  
7. By amending the Article Description of heading 9903.88.04:
  - a. by deleting “9903.88.37 or” and inserting “9903.88.37,” in lieu thereof; and
  - b. by inserting “or 9903.88.40,” after “9903.88.38,”.

- 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 24, 2018, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS) is modified:
- a. U.S. note 20(ll)(68) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “\$0.50 each but not over \$0.60 each” and inserting “\$0.40 each but not over \$0.80” in lieu thereof.
  - b. U.S. note 20(mm)(6) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “and cat leashes, collars, harnesses, retractable leashes,” and inserting “leads, collars, harnesses, retractable leads,” in lieu thereof, and by deleting “cables, stakes and aerials of iron or steel of various sizes, such cables, stakes and aerials presented in a form to be sold individually or in sets” and inserting “cables and aerials, of iron or steel” in lieu thereof.
  - c. U.S. note 20(nn)(30) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “a charging pad and USB port designed for the charging of electronic devices” and inserting “a charging pad or USB port designed for the charging of electronic devices” in lieu thereof.

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