



[Billing Code 3290-F0]

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR-2020-0031]

Request for Comments Concerning the Extension of Particular Exclusions Granted Under the \$300 Billion Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and request for comments.

SUMMARY: On August 20, 2019, at the direction of the President, the U.S. Trade Representative determined to modify the action being taken in the Section 301 investigation of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation by imposing additional *ad valorem* duties on goods of China with an annual trade value of approximately \$300 billion. The additional duties on products in List 1, which is set out in Annex A of that action, became effective on September 1, 2019. The U.S. Trade Representative initiated a product exclusion process in October 2019, and has issued seven product exclusion notices under this action and is issuing an eighth notice concurrent with this notice. The product exclusions granted under these notices are scheduled to expire on September 1, 2020. The U.S. Trade Representative decided to consider a possible extension of particular exclusions granted under the first seven product exclusion notices. This notice announces the U.S. Trade Representative's decision to consider a possible extension of particular exclusions granted under the eighth notice of product exclusions.

DATES:

August 5, 2020: The public docket on the web portal at <https://comments.USTR.gov> opened for parties to submit comments on the possible extension of particular exclusions.

August 20, 2020 at 11:59 pm ET: To be assured of consideration, submit written comments on the public docket by this deadline.

ADDRESSES: You must submit all comments through the online portal:

<https://comments.USTR.gov>.

FOR FURTHER INFORMATION CONTACT: Associate General Counsel Philip Butler or Assistant General Counsel Benjamin Allen at (202) 395-5725.

SUPPLEMENTARY INFORMATION:

A. Background

For background on the proceedings in this investigation, please see prior notices including 82 FR 40213 (August 24, 2017), 83 FR 14906 (April 6, 2018), 84 FR 22564 (May 17, 2019), 84 FR 43304 (August 20, 2019), 84 FR 45821 (August 30, 2019), 84 FR 57144 (October 24, 2019), 84 FR 69447 (December 18, 2019), 85 FR 3741 (January 22, 2020), 85 FR 13970 (March 10, 2020), 85 FR 15244 (March 17, 2020), 85 FR 17936 (March 31, 2020), 85 FR 28693 (May 13, 2020), 85 FR 32099 (May 28, 2020), 85 FR 35975 (June 12, 2020), 85 FR 38482 (June 26, 2020), 85 FR 41658 (July 10, 2020), 85 FR 43639 (July 17, 2020), and 85 FR 44563 (July 23, 2020).

In a notice published on August 20, 2019, the U.S. Trade Representative, at the direction of the President, announced a determination to modify the action being taken in the Section 301 investigation by imposing an additional 10 percent *ad valorem* duty on products of China with an annual aggregate trade value of approximately \$300 billion. 84 FR 43304 (August 20 notice). The August 20 notice contains two separate lists of tariff

subheadings, with two different effective dates. List 1, which is set out in Annex A of the August 20 notice, was effective on September 1, 2019. List 2, which is set out in Annex C of the August 20 notice, was scheduled to take effect on December 15, 2019.

Subsequently, the U.S. Trade Representative announced determinations suspending until further notice the additional duties on products set out in Annex C (List 2) and reducing the additional duties for the products covered in Annex A of the August 20 notice (List 1) to 7.5 percent. *See* 84 FR 57144, 85 FR 3741.

On October 24, 2019, the U.S. Trade Representative established a process by which U.S. stakeholders could request exclusion of particular products classified within an eight-digit Harmonized Tariff Schedule of the United States (HTSUS) subheading covered by List 1 of the \$300 billion action from the additional duties. *See* 84 FR 57144 (October 24 notice). The October 24 notice required submission of requests for exclusion from the \$300 billion action no later than January 31, 2020, and noted that the U.S. Trade Representative periodically would announce decisions. The U.S. Trade Representative has issued seven notices of product exclusions under this action and is issuing an eighth notice concurrent with this notice. These exclusions are scheduled to expire on September 1, 2020.

B. Possible Extensions of Particular Product Exclusions

As noted, the U.S. Trade Representative previously decided to consider a possible extension for up to 12 months of particular exclusions granted under the first seven product exclusion notices under the \$300 billion action. *See* 85 FR 38482 (June 26, 2020), 85 FR 43639 (July 17, 2020), 85 FR 41658 (July 10, 2020), and 85 FR 44563 (July 23, 2020). This notice announces the U.S. Trade Representative's decision to

consider a possible extension for up to 12 months of particular exclusions granted under the eighth notice. Accordingly, the Office of the United States Trade Representative (USTR) invites public comments on whether to extend the particular exclusions issued under the eighth notice of product exclusions that is published in the *Federal Register* concurrently with this notice. Public comments regarding the extension of particular exclusions under the previous seven notices must be filed under separate dockets. Specifically, public comments regarding the extension of particular exclusions under the first five notices of product exclusions issued under the \$300 billion action must be filed under docket USTR-2020-0027. *See* 85 FR 38482 (June 26, 2020). Public comments regarding the extension of particular exclusions under the sixth and seventh notices of product exclusions issued under the \$300 billion action must be filed under docket USTR-2020-0029. *See* 85 FR 43639 (July 17, 2020). Public comments regarding the extension of particular exclusions under the eighth notice must be filed under docket USTR-2020-0031.

USTR will evaluate the possible extension of each exclusion on a case-by-case basis. The focus of the evaluation will be whether, despite the first imposition of these additional duties in September 2019, the particular product remains available only from China. In addressing this factor, commenters should address specifically:

- 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 September 2019 with respect to the particular product or any other relevant industry developments.

- The efforts, if any, the importers or U.S. purchasers have undertaken since September 2019 to source the product from the United States or third countries.

In addition, USTR will continue to consider whether the imposition of additional duties on the products covered by the exclusion will result in severe economic harm to the commenter or other U.S. interests.

C. Procedures to Comment on the Extension of Particular Exclusions

To submit a comment regarding the extension of a particular exclusion granted under the above referenced product exclusion notice under the \$300 billion action, commenters first must register on the portal at <https://comments.USTR.gov>. As noted above, the public docket will be open from August 5, 2020, to August 20, 2020. After registration, the commenter may submit an exclusion extension comment form to the public docket.

Fields on the comment form marked with an asterisk (*) are required fields. Fields with a gray (BCI) notation are for business confidential information and will not be publicly available. Fields with a green (Public) notation will be publicly available. Additionally, commenters will be able to upload documents and indicate whether the documents are BCI or public. Commenters will be able to review the public version of their comments before they are posted.

In order to facilitate the preparation of comments, a facsimile of the exclusion extension comment form to be used on the portal is annexed to this notice. Please note that the color-coding of public fields and BCI fields is not visible on the attached facsimile, but will be apparent on the actual comment form used on the portal.

Set out below is a summary of the information to be entered on the exclusion extension comment form.

- Contact information, including the full legal name of the organization making the comment, whether the commenter is a third party (*e.g.*, law firm, trade association, or customs broker) submitting on behalf of an organization or industry, and the name of the third party organization, if applicable.
- The number for the exclusion on which you are commenting as provided in the Annex of the Federal Register notice granting the exclusion and the description. For descriptions, amended or corrected by a later issued notice of product exclusions, parties should use the amended or corrected description.
- Whether the product or products covered by the exclusion are subject to an antidumping or countervailing duty order issued by the U.S. Department of Commerce.
- Whether you support or oppose extending the exclusion and an explanation of your rationale. Commenters must provide a public version of their rationale, even if the commenter also intends to submit a more detailed business confidential rationale.
- Whether the products covered by the exclusion or comparable products are available from sources in the U.S. or third countries. Please include information concerning any changes in the global supply chain since September 2019 with respect to the particular product.
- The efforts you have undertaken since September 2019 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 and 2019. Whether these purchases are from a related company, and if so, the name of and relationship to the 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 and 2019.
- If applicable, the commenter's gross revenue for 2018 and 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.
- Any additional information or data in support of or in opposition to extending the exclusion that you consider relevant.

D. Submission Instructions

To be assured of consideration, you must submit your comment between the opening of the public docket on August 5, 2020 and the August 20, 2020 submission deadline. If you seek to comment on two or more exclusions, you must submit a separate comment for each exclusion.

By submitting a comment, the commenter certifies that the information provided is complete and correct to the best of their knowledge.

E. Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act of 1995 and its implementing regulations, the Office of Management and Budget assigned control number 0350-0015, which expires January 31, 2023.

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

ANNEX

OMB Control Number: 0350-0015

Expiration Date: January 31, 2023

Exclusion Extension Comment Form

1. Submitter Information

Full Organization Legal Name **(Public)**

Commenter First Name **(BCI)**

Commenter Last Name **(BCI)**

Commenter Phone Number **(BCI)**

Commenter Mailing Address **(BCI)**

Contact Email Address **(BCI)**

Are you a third party, such as a law firm, trade association, or customs broker, submitting on behalf of an organization or industry? **(Public)**

Note: If you are submitting on behalf of an organization/industry, the information below is required.

Third Party Firm/Association Name **(Public)**

Third Party First Name **(BCI)**

Third Party Last Name **(BCI)**

Third Party Phone Number **(BCI)**

Third Party Mailing Address **(BCI)**

Third Party Email Address **(BCI)**

2. a) From the Annex of the Federal Register Notice granting the exclusion, please provide the number and product description for the exclusion you are commenting on. For descriptions subsequently amended or corrected by a later notice, parties should use the amended or corrected description. Click the magnifying glass in the box below to search for and select the number and product description applicable to your comment. You may search by the HTS code or key words in the exclusion. **(Public)**

b) Is this product subject to an antidumping or countervailing duty order issued by the U.S. Department of Commerce? **(Public)**

3. Do you support extending the exclusion (yes or no)? Please explain your rationale. (You must provide a public version of your rationale.) **(Public)**

4. Please explain whether the products covered by the exclusion, or comparable products, are available from sources in the United States? (Please include information concerning any changes in the global supply chain since September 2019 with respect to the particular product or any other relevant industry developments.) (Public)

5. Please explain whether the products covered by the exclusion, or a comparable products, are available from sources in third countries? (Please include information concerning any changes in the global supply chain since September 2019 with respect to the particular product.) (Public)

6. a) Please provide the value in USD and quantity (with units) of the Chinese-origin product covered by the specific exclusion that you purchased in 2018 and 2019. Limit this figure to the products purchased by your firm (or by members of your trade association). Please provide estimates if precise figures are unavailable. (BCI)

2018 Value:	<input type="text"/>	2018 Quantity:	<input type="text"/>
2019 Value:	<input type="text"/>	2019 Quantity:	<input type="text"/>

Are the provided figures estimates? (BCI)

Are any of these purchases from a related company? (BCI)

Please list the name and relationship of the related company. (BCI)

Name: Relationship:

b.) Please discuss whether Chinese suppliers have lowered their prices for products covered by the exclusion following imposition of the duties. (BCI)

7. Please provide the value in USD and quantity (with units) of the product covered by the specific exclusion that you purchased from any third-country source in 2018 and 2019. Limit this figure to the products purchased by your firm (or by members of your trade association). Please provide estimates if precise figures are unavailable. (BCI)

2018 Value:	<input type="text"/>	2018 Quantity:	<input type="text"/>
2019 Value:	<input type="text"/>	2019: Quantity:	<input type="text"/>

Are the provided figures estimates? (BCI)

8. Please provide the value in USD and quantity (with units) of the product covered by the specific exclusion that you purchased from domestic sources in 2018 and 2019. Limit this figure to the products purchased by your firm (or by members of your trade association). Please provide estimates if precise figures are unavailable. (BCI)

2018 Value:	<input type="text"/>	2018 Quantity:	<input type="text"/>
2019 Value:	<input type="text"/>	2019 Quantity:	<input type="text"/>

Are the provided figures estimates? (BCI)

9. Please discuss any efforts you have undertaken since September 2019 to source this product from United States or third countries. (BCI)

10. Please provide information regarding your company's gross revenue in USD for 2018 and 2019. (BCI)

2018 Gross Revenue:	<input type="text"/>
2019 Gross Revenue:	<input type="text"/>

Are the provided gross revenue figures estimates? (BCI)

11. Is the Chinese-origin product of concern sold as a final product or as an input used in the production of a final product or products? (BCI)

12. Please comment on whether the imposition of additional duties on the product(s) covered by the exclusion you are seeking an extension for, will result in severe economic harm to your company or other U.S. interests. (BCI)

13. Please provide any additional information in support of your comment, taking account of the instructions provided in Section B of the Federal Register notice. (BCI)

14. You may upload additional attachments in support of your comment. Please specify whether the attachment is Public or contains Business Confidential Information. (Submitter Determines Public or BCI)

[FR Doc. 2020-17441 Filed: 8/10/2020 8:45 am; Publication Date: 8/11/2020]