



[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: In September 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 exclusions and make technical amendments to previously announced exclusions.

DATES: As stated in the September 20, 2019 notice, product exclusions will apply from September 24, 2018 to August 7, 2020. The amendments announced in this notice are retroactive to the date the original exclusions were published and do not 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 Associate General Counsel 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 traderemedycbp@dhs.gov.

SUPPLEMENTARY INFORMATION:

A. Background

For background on the proceedings in this investigation, please see the prior notices 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 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 FR 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), 85 FR 6674 (February 5, 2020), 85 FR 9921 (February 20, 2020), 85 FR 15015 (March 16, 2020), 85 FR 17158 (March 26, 2020), 85 FR 23122 (April 24, 2020), 85 FR 27489 (May 8, 2020), 85 FR 32094 (May 28, 2020), 85 FR 38000 (June 24, 2020), and 85 FR 42968 (July 15, 2020).

Effective September 24, 2018, the U.S. Trade Representative imposed additional 10 percent *ad valorem* 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 U.S. Trade Representative established a process by which stakeholders could request exclusion of particular products classified

within an eight-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 eight-digit HTSUS subheading covered by the \$200 billion action. Requestors also had to provide the ten-digit HTSUS subheading 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 periodically would 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, October, November and December 2019, and January, February, March, April, May, June and July 2020. *See* 84 FR 49591; 84 FR 57803; 84 FR 61674; 84 FR 65882; 84 FR 69012; 85 FR 549; 85 FR 6674; 85 FR 9921; 85 FR 15015; 85 FR 17158; 85 FR 23122; 85 FR 27489; 85 FR 32094; 85 FR 38000; 85 FR 42968. The Office of the United States Trade Representative regularly updates the status of each pending request on the Exclusions Portal at <https://exclusions.ustr.gov/s/docket?docketNumber=USTR-2019-0005>.

B. Determination to Grant Certain Exclusions

Based on 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 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 two specially prepared product descriptions that respond to two exclusion requests. In accordance with the June 24 notice, the exclusions are available for any products that meet the description in the Annex, regardless of whether the importer benefitting from the product exclusion filed an exclusion request. Further, the scope of an exclusion is governed by the scope of the product descriptions in the Annex and not by the product description found in any particular request for exclusion.

C. Technical Amendments to Exclusions

Paragraph A of the Annex contains eight technical amendments to U.S. note 20(qq)(100), U.S. note 20(ll)(17), and U.S. notes 20(yy)(78)-(83) to subchapter III of chapter 99 of the HTSUS, as set out in the Annexes of the notices published at 84 FR 57803 (October 28, 2019), 85 FR 6674 (February 5, 2020), and 85 FR 27489 (May 8, 2020).

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, and before August 7, 2020, U.S. note 20(aaa) 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 (79):
1. (80) Wallets, whether or not with wrist straps, of reinforced plastics, each measuring at least 17.5 cm long by 2 cm wide by 11 cm high and not more than 19 cm long by 2 cm wide by 11 cm high (described in statistical reporting number 4202.32.1000)
 2. (81) Mixtures containing N,N-dimethyldodecan-1-amine (CAS No. 112-18-5) and N,N-dimethyltetradecan-1-amine (CAS No. 112-75-4) (described in statistical reporting number 3824.99.9297)
- 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:
1. U.S. note 20(qq)(100) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States, is modified by deleting “(described in statistical reporting number 9403.20.0050)” and inserting “(described in statistical reporting number 9403.20.0050 or 9403.20.0078)” in lieu thereof.
 2. U.S. note 20(ll)(17) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States, is modified by deleting “Imitation leather fabrics, of manmade fibers impregnated, coated, covered or laminated with 75 percent polyvinyl chloride (PVC) by weight” and inserting “Imitation leather fabrics, of manmade fibers impregnated, coated, covered or laminated with a minimum of 60% polyvinyl chloride (PVC) and 75% plastics by weight” in lieu thereof.
 3. U.S. note 20(yy)(78) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States, is modified by deleting “each measuring at least 141 cm but not more than 413 cm in length, at least 67 cm but not more than 179 cm in width and at least 47 cm but not more than 67 cm in height” and inserting

- “each measuring at least 119 cm but not more than 475 cm in length, at least 56 cm but not more than 206 cm in width and at least 39 cm but not more than 78 cm in height” in lieu thereof.
4. U.S. note 20(yy)(79) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States, is modified by deleting “each measuring at least 105 cm but not more than 146 cm in length, at least 67 cm but not more than 77 cm in width and at least 42 cm but not more than 77 cm in height” and inserting “each measuring at least 89 cm but not more than 168 cm in length, at least 56 cm but not more than 89 cm in width and at least 35 cm but not more than 89 cm in height” in lieu thereof.
 5. U.S. note 20(yy)(80) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States, is modified by deleting “each measuring at least 83 cm but not more than 240 cm in length, at least 39 cm but not more than 100 cm in width and at least 17 cm but not more than 93 cm in height” and inserting “each measuring at least 70 cm but not more than 276 cm in length, at least 33 cm but not more than 115 cm in width and at least 14 cm but not more than 107 cm in height” in lieu thereof.
 6. U.S. note 20(yy)(81) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States, is modified by deleting “each measuring at least 67 cm but not more than 608 cm in length, at least 50 cm but not more than 75 cm in width and at least 14 cm but not more than 34 cm in height” and inserting “each measuring at least 56 cm but not more than 700 cm in length, at least 42 cm but not more than 87 cm in width and at least 11 cm but not more than 39 cm in height” in lieu thereof.
 7. U.S. note 20(yy)(82) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States, is modified by deleting “each measuring at least 47 cm but not more than 75 cm in length, at least 37 cm but not more than 57 cm in width and at least 29 cm but not more than 108 cm in height” and inserting “each measuring at least 39 cm but not more than 87 cm in length, at least 31 cm but not more than 65 cm in width and at least 24 cm but not more than 125 cm in height” in lieu thereof.
 8. U.S. note 20(yy)(83) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States, is modified by deleting “each measuring at least 88 cm but not more than 217 cm in length, at least 39 cm but not more than 95 cm in width and at least 9 cm but not more than 22 cm in height” and inserting “each measuring at least 74 cm but not more than 250 cm in length, at least 33 cm but not more than 110 cm in width and at least 7 cm but not more than 26 cm in height” in lieu thereof.

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