



[Billing Code 3290-F1]

## **OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE**

### **Notice of Product Exclusion Amendment: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation**

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice.

**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 duties of 10 percent *ad valorem* 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. On August 30, 2019, at the direction of the President, the U.S. Trade Representative determined to increase the rate of the additional duty applicable to the tariff subheadings covered by the action announced in the August 20 notice from 10 to 15 percent. On January 22, 2020, the U.S. Trade Representative determined to reduce the rate from 15 to 7.5 percent. The U.S. Trade Representative initiated a product exclusion process in October 2019, and interested persons have submitted requests for the exclusion of specific products. This notice announces the U.S. Trade Representative's determination to make one technical amendment to a previously granted exclusion.

**DATES:** The amendment announced in this notice applies as of September 1, 2019, the effective date of List 1 of the \$300 billion action. It is retroactive to the date the original

exclusion was published and does not further extend the period for the original exclusion. 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, Assistant General Counsel 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 [traderemedies@cbp.dhs.gov](mailto:traderemedies@cbp.dhs.gov).

**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), 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 49153 (September 28, 2018), 84 FR 20459 (May 9, 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 32098 (May 28, 2020), 85 FR 35975 (June 12, 2020), 85 FR 41658 (July 10, 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 goods of China classified in 3,805 full and partial subheadings of the Harmonized Tariff

Schedule of the United States (HTSUS), with an approximate annual trade value of \$300 billion. *See* 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, went into effect 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.

On August 30, 2019, the U.S. Trade Representative, at the direction of the President, determined to modify the action being taken in the investigation by increasing the rate of additional duty from 10 to 15 percent *ad valorem* on the goods of China specified in Annex A (List 1) and Annex C (List 2) of the August 20 notice. *See* 84 FR 45821. 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 HTSUS subheading covered by List 1 of the \$300 billion action from the additional duties. *See* 84 FR 57144 (the October 24 notice). Subsequently, the U.S. Trade Representative announced a determination to suspend until further notice the additional duties on products set out in Annex C (List 2) of the August 20 notice. *See* 84 FR 69447 (December 18, 2019). The U.S. Trade Representative later determined to further modify the action being taken by reducing the additional duties for the products covered in Annex A of the August 20 notice (List 1) from 15 to 7.5 percent. *See* 85 FR 3741 (January 22, 2020).

Under the October 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 subheading covered by the \$300

billion action. Requestors also had to provide the ten-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, among other information. 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 October 24 notice stated that the U.S. Trade Representative would take into account whether an exclusion would undermine the objectives of the Section 301 investigation.

The October 24 notice required submission of requests for exclusion from List 1 of the \$300 billion action no later than January 31, 2020, and noted that the U.S. Trade Representative periodically would announce decisions. In March 2020, the U.S. Trade Representative announced three sets of exclusions. *See* 85 FR 13970; 85 FR 15244; 85 FR 17936. Additional sets of exclusions were published in May, June, July, and August 2020. *See* 85 FR 28693; 85 FR 32098; 85 FR 35975; 85 FR 41658; 85 FR 44563; 85 FR

48627. The status of each request is posted on the Exclusions Portal at <https://exclusions.ustr.gov/s/docket?docketNumber=USTR-2019-0017>.

**B. Technical Amendment to an Exclusion**

The Annex makes one technical amendment to U.S. note 20(ddd)(21) to subchapter III of chapter 99 of the HTSUS, as set out in the Annex of the notice published at 85 FR 41658 (July 10, 2020).

**ANNEX**

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 1, 2019, note 20(ddd)(21) to Subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS), is modified by deleting “Bright C1060 galvanized round wire, containing by weight 0.6 percent or more of carbon, measuring at least 0.034 mm but not more than 0.044 mm in diameter” and inserting “Bright C1060 round wire, plated or coated with zinc, containing by weight 0.6 percent or more of carbon, with a diameter measuring 0.034 mm or more but less than 1 mm” in lieu thereof.

**Joseph Barloon,**  
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