



OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Extension for Product Exclusions: China's Acts, Policies, and Practices

Related to Technology Transfer, Intellectual Property, and Innovation

AGENCY: Office of the United States Trade Representative (USTR).

ACTION: Notice.

SUMMARY: In prior notices, the U.S. Trade Representative modified the actions in the section 301 investigation of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation by excluding from additional duties certain products of China, including medical-care products needed to address COVID. In December 2022, the U.S. Trade Representative determined to extend 352 previously reinstated exclusions through September 30, 2023 and in May 2023 determined to extend 77 COVID-related exclusions through September 30, 2023. This notice announces the U.S. Trade Representative's determination to further extend the 352 reinstated exclusions and 77 COVID-related exclusions until December 31, 2023.

DATES: The extensions in this notice extend the 352 reinstated exclusions and 77 COVID-related exclusions through December 31, 2023. 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 Assistant General Counsel Edward Marcus at (202) 395-5725. For specific questions on customs classification or implementation of the product exclusions, contact traderemedycbpdhs.gov.

SUPPLEMENTARY INFORMATION:

A. Background

In the course of this investigation, the U.S. Trade Representative has imposed additional duties on products of China in four tranches. *See* 83 FR 28719 (June 20, 2018);

83 FR 40823 (August 16, 2018); 83 FR 47974 (September 21, 2018), as modified by 83 FR 49153 (September 28, 2018); and 84 FR 43304 (August 20, 2019), as modified by 84 FR 69447 (December 18, 2019) and 85 FR 3741 (January 22, 2020).

Reinstated Exclusions

For each tranche of additional duties, the U.S. Trade Representative established a process by which U.S. stakeholders could request the exclusion of particular products subject to the action. Starting in November 2019, the U.S. Trade Representative established processes for submitting public comments on whether to extend particular exclusions. *See, e.g.*, 85 FR 6687 (February 5, 2019) and 85 FR 38482 (June 26, 2020). Pursuant to these processes, the U.S. Trade Representative determined to extend 549 exclusions. With the exception of certain exclusions related to the U.S. response to COVID, all of these 549 exclusions expired.

On October 8, 2021, the U.S. Trade Representative invited the public to submit comments on whether to reinstate certain exclusions previously granted and extended. 86 FR 56345 (October 8, 2021) (the October 8 notice). On March 28, 2022, the U.S. Trade Representative determined to further modify the action by reinstating 352 of the 549 expired exclusions. The reinstated exclusions applied as of October 12, 2021, and extended through December 31, 2022. *See* 87 FR 17380 (March 28, 2022).

In accordance with section 307(c)(3) of the Trade Act of 1974, on September 8, 2022, USTR announced that it would be conducting a review of the July 6, 2018 and August 23, 2018 actions, as modified. *See* 87 FR 26797 (May 5, 2022); 87 FR 55073 (September 8, 2022).

On December 21, 2022, based on continued consideration of the factors and criteria set forth in the October 8 notice, and in light of the ongoing statutory four-year review, the U.S. Trade Representative determined to extend the 352 reinstated exclusions through September 30, 2023 to allow the U.S. Trade Representative to consider and

align, as appropriate, the reinstated exclusions with the results of the statutory four-year review. *See* 87 FR 78187 (December 21, 2022) (December 21 notice).

COVID-Related Exclusions

On March 25, 2020, USTR requested public comments on proposed modifications to exclude from additional duties certain medical-care products related to the U.S. response to COVID. 85 FR 16987 (March 25, 2020).

On December 29, 2020, USTR announced 99 product exclusions for medical-care products and products related to the U.S. COVID response. These 99 exclusions were later extended until September 30, 2021. *See* 86 FR 13785. On August 27, 2021, USTR published a notice requesting public comments on whether any of these exclusions should be further extended for up to six months. *See* 86 FR 48280. On November 16, 2021, USTR announced the U.S. Trade Representative's determination to extend 81 of these exclusions for an additional six months. *See* 86 FR 63438 (November 16, 2021). These 81 exclusions were subsequently extended through February 28, 2023. *See* 87 FR 33871 (June 03, 2022); 87 FR 73383 (November 29, 2022).

On February 7, 2023, USTR published a notice requesting public comments on whether to further extend any of the COVID-related exclusions for up to six months. *See* 87 FR 8027 (February 7, 2023).

On May 17, 2023, based on evaluation of the public comments, the factors set out in the February 7 notice, and to allow the U.S. Trade Representative to consider and align, as appropriate, the exclusions with the results of the statutory 4-year review, the U.S. Trade Representative determined to extend 77 of the COVID-related exclusions through September 30, 2023. *See* 88 FR 31580 (May 17, 2023).

B. Determination to Further Extend Reinstated and COVID-Related Exclusions

To provide a transition period for the expiring exclusions and to allow for further consideration under the four-year review, and pursuant to sections 301(b), 301(c), and

307(a) of the Trade Act of 1974, as amended, the U.S. Trade Representative has determined that it is appropriate to further extend the 352 reinstated exclusions and the 77 COVID-related exclusions, as set out in the Annex A and Annex B to this notice, until December 31, 2023.

The exclusion extensions are available for any product that meets the description in the product exclusion. Further, the scope of each exclusion and modification is governed by the scope of the ten-digit Harmonized Tariff Schedule of the United States (HTSUS) subheadings and product descriptions in the Annexes A and B to this notice. U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

Annex for Reinstated Exclusions

Annex A

The U.S. Trade Representative has determined to extend all exclusions previously extended under heading 9903.88.67 and U.S. notes 20(ttt)(i), 20(ttt)(ii), 20(ttt)(iii), and 20(ttt)(iv) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS). *See* 87 FR 78187 (December 21, 2022). The extension is 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 October 1, 2023, and before 11:59 p.m. eastern standard time on December 31, 2023. Effective on October 1, 2023, the article description of heading 9903.88.67 of the HTSUS is modified by deleting “September 30, 2023,” and by inserting “December 31, 2023,” in lieu thereof.

Annex for COVID-Related Exclusions

Annex B

The U.S. Trade Representative has determined to extend all exclusions previously extended under heading 9903.88.68 and U.S. notes 20(uuu)(i), 20(uuu)(ii), 20(uuu)(iii), and 20(uuu)(iv) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS). *See* 88 FR 31580 (May 17, 2023). The extension is 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 October 1, 2023, and before 11:59 p.m. eastern standard time on December 31, 2023. Effective on October 1, 2023, the article description of heading 9903.88.68 of the HTSUS is modified by deleting “October 1, 2023,” and by inserting “January 1, 2024,” in lieu thereof.

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