

[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 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.

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

FOR FURTHER INFORMATION CONTACT: For general questions about this notice, contact Assistant General Counsels 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 traderemedy@cbp.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), and 84 FR 49591 (September 20, 2019).

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 can 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 it 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 a second round of exclusions in September 2019. *See* 84 FR 49591. 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/PublicDocket>.

B. Determination to Grant Certain Exclusions

Based on the evaluation of the factors set out 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 out 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 out in the Annex, the exclusions are reflected in 83 specially prepared product descriptions, which cover 95 separate 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 set out in any particular request for exclusion.

Paragraph A, subparagraphs (3)–(5) are conforming amendments to the HTSUS reflecting the modification made by the Annex.

Paragraph B is a technical correction to the HTSUS modifying U.S. note 20(a) to subchapter III of chapter 99.

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 9903.88.33 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	
“9903.88.33	Articles the product of China, as provided for in U.S. note 20(II) 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(II) to subchapter III of chapter 99 in numerical sequence:

“(II) 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. 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 shall not apply to the following particular products, which are provided for in the enumerated statistical reporting numbers:

- (1) Erythritol (CAS No. 149-32-6) (described in statistical reporting number 2905.49.4000)
- (2) 3-Trifluoromethyl-4-nitrophenol (CAS No. 88-30-2) (IUPAC: 4-nitro-3-(trifluoromethyl)phenol), valued over \$16 per kg but not over \$25 per kg (described in statistical reporting number 2908.99.8000)
- (3) Sebacic acid (CAS No. 111-20-6) (described in statistical reporting number 2917.13.0030)
- (4) 4,4'-Diamino-2,2'-stilbenedisulfonic acid (CAS No. 81-11-8) (described in statistical reporting number 2921.59.2000)

- (5) Ethyl 4-aminobenzoate (CAS No. 94-09-7) (Benzocaine (INN)) (described in statistical reporting number 2922.49.3700)
- (6) N-Butyl isocyanate (CAS No. 111-36-4) (described in statistical reporting number 2929.10.2700)
- (7) Pigment yellow 13 (CAS No. 5102-83-0) (described in statistical reporting number 3204.17.9050)
- (8) Polyethylene terephthalate (PET) film coated with a photoresist solution, in rolls, sensitized, unexposed, without perforations, of a width exceeding 105 mm but not exceeding 610 mm, not used as graphic arts film (described in statistical reporting number 3702.44.0160)
- (9) Ceiling tiles of cellular polyvinyl chloride (PVC), in rolls, not backed by textile fibers, each measuring 60 cm by 60 cm by 4 mm (described in statistical reporting number 3918.10.5000)
- (10) Gaskets, washers and other seals (other than O-rings or oil seals), of nitrile rubber, ethylene propylene diene monomer (EPDM) rubber or fluoroelastomers (described in statistical reporting number 4016.93.5050)
- (11) Brake bushings, hard or soft (described in statistical reporting number 4016.99.6050)
- (12) Trays, plates and bowls, of bamboo (described in statistical reporting number 4823.61.0040)
- (13) Yarn of carded Merino sheep wool, not put up for retail sale, containing 85 percent by weight of wool, of which the average fiber diameter is not more than 25 microns (described in statistical reporting number 5106.10.0090)
- (14) Woven dyed fabrics of 100 percent textured polyester filament yarn, measuring 332.7 cm in width, weighing more than 170 g/m² (described in statistical reporting number 5407.52.2060)
- (15) Nonwoven fabrics of man-made fibers, weighing more than 25 g/m² but not more than 70 g/m², with a smooth or embossed texture (not impregnated, coated or covered with material other than or in addition to rubber, plastics, wood pulp or glass fibers), in rolls that are pre-slitted in lengths of not less than 15 cm to not more than 107 cm, for use in the manufacture of personal care wipes (described in statistical reporting number 5603.12.0090)
- (16) Seat belt webbing of man-made fibers, measuring 25 mm or more but not exceeding 50 mm in width, not cut to specific length (described in statistical reporting number 5806.32.2000)
- (17) Imitation leather fabrics, of man-made fibers impregnated, coated, covered or laminated with 75 percent polyvinyl chloride (PVC) by weight (described in statistical reporting number 5903.10.2090)
- (18) Fabrics of man-made micro-denier fibers impregnated, coated, covered, or laminated with polyurethane, of a width of at least 135 cm but no more than 150 cm, weighing at least 206 g/m² but not more than 500 g/m² (described in statistical reporting number 5903.20.2500)
- (19) Long pile knit fabrics, of acrylic pile on polyester ground, valued not over \$16 per m² (described in statistical reporting number 6001.10.2000)

- (20) Cement backer boards (CAS No. 1309-48-4) (described in statistical reporting number 6810.99.0080)
- (21) Tiles of non-recycled glass on a vinyl mesh backing, in a grid pattern of not less than 304 mm by 304 mm and not exceeding 305 mm by 305 mm, for mosaics or other decorative or construction purposes (described in statistical reporting number 7016.10.0000)
- (22) Microscope slides, each 25 mm by 76 mm, with a 25 mm by 25 mm area coated in printable paint (described in statistical reporting number 7017.90.1000)
- (23) Articulated chains of iron, not over 8 mm in thickness and valued not over \$2 per kg (described in statistical reporting number 7315.12.0080)
- (24) Bolts of alloy steel other than stainless steel, with shanks or threads with a diameter of 6 mm or more, valued not over \$0.10 per kg (described in statistical reporting number 7318.15.8069)
- (25) Perforated hollow hex head bolts (“banjo bolts”) of steel other than stainless, with shanks or threads with a diameter of 6 mm or more, valued not over \$0.10 per kg (described in statistical reporting number 7318.15.8069)
- (26) Kerosene air heaters, each incorporating a motor-driven fan or blower, each valued at \$100 or more but not exceeding \$120 (described in statistical reporting number 7322.90.0015)
- (27) Freestanding cast iron bathtubs, without feet, coated with porcelain enamel, each valued over \$275 (described in statistical reporting number 7324.21.5000)
- (28) Stamped steel rings, measuring 1.22 mm in thickness and 35 mm in diameter, of a kind used with rubber vibration bushings in motor vehicle suspensions (described in statistical reporting number 7326.19.0080)
- (29) Portable work table bases (described in statistical reporting number 7326.90.8688)
- (30) Sawhorses of steel, with folding legs, each with a weight capacity of at least 225 kg but not more than 685 kg (described in statistical reporting number 7326.90.8688)
- (31) Decorative copper cup rainfall funnels, each weighing not more than 1.5 kg with a chain measuring 20 cm in length, cups each measuring 80 cm in height, 10 cm in width, 10 cm in diameter (described in statistical reporting number 7419.99.5050)
- (32) Nickel hydroxy carbonate (CAS No. 12607-70-4) (described in statistical reporting number 7501.20.0000)
- (33) Aluminum desktop stands for laptop computers (described in statistical reporting number 7616.99.5190)
- (34) Extension wrenches (described in statistical reporting number 8204.11.0060)
- (35) Parallel clamps with jaws not more than 10 cm wide (described in statistical reporting number 8205.70.0090)
- (36) Drill bits of steel, consisting of three legs that are welded together with each leg containing rotating cones, for use in drilling for oil and natural gas (described in statistical reporting number 8207.19.3060)
- (37) Cylindrical cemented tungsten carbide rod blanks, containing by weight 60 percent or more of tungsten carbide, 30 percent or less of cobalt, and 15 percent or less of nickel (described in statistical reporting number 8209.00.0030)

- (38) Brake pad clips, of stainless steel, for motor vehicles of headings 8703 and 8704 (described in statistical reporting number 8302.30.3060)
- (39) Fifteen-door refrigerated lockers designed to convey pre-ordered groceries to consumers, measuring not over 80 cm in depth by 230 cm in length by 35 cm in height (described in statistical reporting number 8418.50.0080)
- (40) Nine-door refrigerated lockers designed to convey pre-ordered groceries to consumers, measuring not over 80 cm in depth by 230 cm in length by 35 cm in height (described in statistical reporting number 8418.50.0080)
- (41) Pressure washers (described in statistical reporting number 8424.30.9000)
- (42) Cash drawers for cash registers of subheading 8470.50 (described in statistical reporting number 8473.29.0000)
- (43) Ball valves, of bronze, designed for use in marine engines, generators and air conditioners, in sizes from 6 mm NPT/BSPP to 102 mm NPT/BSPP (described in statistical reporting number 8481.80.1085)
- (44) Hand operated butterfly valves, of iron, lever operated, designed for use in irrigation systems, such valves each measuring not over 34 cm by 13 cm by 34 cm (described in statistical reporting number 8481.80.3030)
- (45) Hand operated butterfly valves, of iron, lever operated, designed for use in irrigation systems, such valves each measuring not over 34 cm by 13 cm by 40 cm (described in statistical reporting number 8481.80.3030)
- (46) Hand operated butterfly valves, of iron, lever operated, designed for use in irrigation systems, such valves each measuring not over 46 cm by 18 cm by 50 cm (described in statistical reporting number 8481.80.3030)
- (47) Hand operated butterfly valves, of iron, lever operated, designed for use in irrigation systems, such valves each measuring not over 55 cm by 58 cm by 18 cm (described in statistical reporting number 8481.80.3030)
- (48) Hand operated butterfly valves, of iron, lever operated, designed for use in irrigation systems, such valves each measuring not over 65 cm by 61 cm by 19 cm (described in statistical reporting number 8481.80.3030)
- (49) Faucets of brass, designed for use on centerset and widespread lavatory sinks (described in statistical reporting number 8481.80.5060)
- (50) Fan-forced, portable electric space heaters, each having a power consumption of not more than 1.5 kW and weighing more than 1.5 kg but not more than 17 kg, whether or not incorporating a humidifier or air filter (described in statistical reporting number 8516.29.0030)
- (51) Fan-forced, portable electric space heaters, each having a power consumption more than 900 W but not more than 1.6 kW and weighing more than 1.5 kg but not more than 17 kg, whether or not incorporating a humidifier or air filter (described in statistical reporting number 8516.29.0030)
- (52) Electric fireplace inserts and free-standing electric fireplace heaters, rated at 5,000 British thermal units (BTUs) (described in statistical reporting number 8516.29.0090)
- (53) Electric fireplaces, weighing not more than 21 kg (described in statistical reporting number 8516.29.0090)

- (54) Mobile wi-fi hotspots (described in statistical reporting number 8517.62.0020)
- (55) Magnetic security tags and labels (described in statistical reporting number 8531.90.9001)
- (56) Printed circuit boards, plastics impregnated, not flexible, having a base wholly of impregnated glass, with fewer than 3 layers of conducting materials, valued over \$2 but not over \$4.25 each (described in statistical reporting number 8534.00.0040)
- (57) Programmable gas ignition safety controls, each measuring at least 4 cm but not more than 5 cm in height, at least 6 cm but not more than 9 cm in width, and not more than 14 cm in depth, weighing at least 190 g but not more than 250 g, and valued not over \$15 each, of a kind used in water heaters for recreational vehicles (described in statistical reporting number 8537.10.9160)
- (58) Gas ignition control relighters, each measuring 5 cm by 4 cm by 10 cm, and weighing not more than 100 kg, of a kind used in gas burner systems or propane vaporizers (described in statistical reporting number 8537.10.9170)
- (59) Gas ignition safety controls, each measuring at least 3 cm but not more than 6 cm in height, at least 9 cm but not more than 12 cm in width, and at least 13 cm but not more than 14 cm in height, weighing at least 200 g but not more than 400 g, and valued not over \$26 each, of a kind used in patio heaters, agricultural heaters, or clothes dryers (described in statistical reporting number 8537.10.9170)
- (60) Hybrid signal processing apparatus capable of connecting to a wired or wireless network for the mixing of sound (described in statistical reporting number 8543.70.9100)
- (61) Insulated electric conductors for a voltage not exceeding 1,000 V, fitted with connectors of a kind used for telecommunications, each valued over \$0.35 but not over \$2 (described in statistical reporting number 8544.42.2000)
- (62) Insulated electric conductors, for a voltage not exceeding 1,000 V, fitted with connectors (other than of a kind used for telecommunications, other than extension cords as defined in statistical note 6 to chapter 85), such conductors measuring not less than 8 m and not more than 10 m in length, incorporating a connector on one end and a weather-resistant compartment and cover designed to house 4 AA batteries on the other end (described in statistical reporting number 8544.42.9090)
- (63) Safety seat belts of the motor vehicles of headings 8701 to 8705, each valued over \$3.50 but not over \$4.50 (described in statistical reporting number 8708.21.0000)
- (64) Seat belt retractor assemblies without a ratchet mechanism (described in statistical reporting number 8708.29.5060)
- (65) Cast iron parts of differential dampers for motor vehicles of heading 8703 (described in statistical reporting number 8708.50.8100)
- (66) Road wheels for the vehicles of heading 8703, of A 356 aluminum, each measuring at least 50.8 cm but not more than 66.04 cm (20 inches to 26 inches) in diameter and at least 25.4 cm but not more than 40.64 cm (10 inches to 16 inches) in width (described in statistical reporting number 8708.70.4545)

- (67) Clutch covers and discs of steel for the motor vehicles of headings 8701 to 8705 (other than for tractors suitable for agricultural use) (described in statistical reporting number 8708.93.7500)
- (68) Anti-vibration control components of ASTM A519 1020 cold-drawn precision mechanical tubing of steel, valued over \$0.50 each but not over \$0.60 each, for motor vehicles of headings 8701 to 8705 (other than for tractors suitable for agricultural use) (described in statistical reporting number 8708.99.8180)
- (69) Bicycle frames, of carbon fiber, valued not over \$600 each (described in statistical reporting number 8714.91.3000)
- (70) Mobile bases, of which the length of the sides can be adjusted, with a capacity of 182 kg or more but not exceeding 680 kg (described in statistical reporting number 8716.8050.90)
- (71) Unmounted lenses for rifle scopes, rangefinders and spotting scopes (described in statistical reporting number 9001.90.4000)
- (72) Clear rectangular filter cover lenses, unmounted, of allyl diglycol carbonate for arc welding helmets, each measuring 50 mm by 110 mm or measuring 115 mm by 135 mm (described in statistical reporting number 9001.90.9000)
- (73) Parts and accessories of meteorological instruments and appliances, consisting of a kit including a housing for mounting to a pole with an integrated tightening knob and an extension cord measuring not less than 8 m and not more than 10 m in length (described in statistical reporting number 9015.90.0190)
- (74) Battery-powered timers, with clock or watch movements, with opto-electronic display only, incorporating a 360-degree rotating timer control, a start/stop control, a reset control, and an audible alarm, with a maximum time count of 9 hours, 59 minutes, and 59 seconds (described in statistical reporting number 9106.90.5510)
- (75) Battery-powered timers, with clock or watch movements, with opto-electronic display only, incorporating an audible alarm, with dimensions not exceeding 10 cm by 10 cm by 5 cm, weighing no more than 60 grams (described in statistical reporting number 9106.90.5510)
- (76) Foot assemblies of base metal and rubber, designed for folding chairs (described in statistical reporting number 9401.90.5081)
- (77) Wooden jewelry armoires, each weighing over 13 kg but not over 28 kg, measuring 101 cm in height by 44 cm in width by 30 cm in depth, with 8 drawers (described in statistical reporting number 9403.50.9080)
- (78) Wooden jewelry armoires, each weighing over 13 kg but not over 28 kg, measuring 102 cm in height by 46 cm in width by 30 cm in depth, with 7 drawers (described in statistical reporting number 9403.50.9080)
- (79) Bassinets, composed of polyester fabric with frames of steel tubing, each measuring 86 cm in length by 51 cm in width by 88 cm in height, weighing not more than 11 kg, with drop-side rail and adjustable height legs on wheels (described in statistical reporting number 9403.89.6003)
- (80) Bassinets, composed of polyester fabric with frames of steel tubing, each measuring 86 cm in length by 52 cm in width by 81 cm in height weighing not more than 11 kg,

- or 100 cm in length by 65 cm in width by 81 cm in height weighing 13 kg, with drop-side rail and wheels (described in statistical reporting number 9403.89.6003)
- (81) Bassinets, composed of polyester fabric with frames of steel tubing, each measuring 91 cm in length and 72 cm in width, weighing not more than 13 kg, with drop-side rail, adjustable height legs on wheels, presented with hanging toys and musical mobile (described in statistical reporting number 9403.89.6003)
 - (82) Infant bassinets, of metal, plastic and fabric, measuring not over 80 cm by 30 cm by 30 cm (described in statistical reporting number 9403.89.6003)
 - (83) Desk or table top computer monitor sit/stand workstations, each valued over \$100 (described in statistical reporting number 9403.90.8061)”

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(p) to subchapter III of chapter 99;”; and
- b. by inserting the phrase “; or (3) heading 9903.88.33 and U.S. note 20(II) to subchapter III of chapter 99” after the phrase “U.S. note 20(w) 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(p) to subchapter III of chapter 99;”; and
- b. by inserting the phrase “; or (3) heading 9903.88.33 and U.S. note 20(II) to subchapter III of chapter 99” after the phrase “U.S. note 20(w) to subchapter III of chapter 99”.

5. by amending the Article Description of heading 9903.88.03:

- a. by deleting “9903.88.13 or” and inserting “9903.88.13,” in lieu thereof; and
- b. by inserting “or 9903.88.33,” after “9903.88.18,”.

B. U.S. note 20(a) to subchapter III of chapter 99 is modified by deleting “(7)” where it appears before the phrase “heading 9903.88.19” and by inserting “(8)” in lieu thereof.