[Billing Code 3290-F0]

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Docket Number USTR-2019-0024

Request for Comments Concerning the Extension of Particular Exclusions Granted Under the March 2019 Product Exclusion Notice from the $34 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: Effective July 6, 2018, the U.S. Trade Representative imposed additional duties on goods of China with an annual trade value of approximately $34 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 the exclusion process in July 2018 and granted multiple sets of exclusions. The second set of exclusions was granted in March 2019, and are scheduled to expire on March 25, 2020. The U.S. Trade Representative has decided to consider a possible extension for up to 12 months of particular exclusions granted in March 2019. The Office of the U.S. Trade Representative (USTR) invites public comment on whether to extend particular exclusions.

DATES:

January 15, 2020 at 12:01 am ET: The docket (USTR-2019-0024) will open for submitting comments on the possible extension of particular exclusions.

February 15, 2020 at 11:59 pm ET: To be assured of consideration, submit written comments by February 15, 2020.

ADDRESSES: Submit public comments through the Federal eRulemaking Portal: https://www.regulations.gov. The docket number is USTR-2019-0024. USTR strongly encourages all commenters to use Form A in submitting comments. If applicable, Form B (which requests Business Confidential Information (BCI)), along with a copy of the corresponding Form A, must be submitted via email at 301bcisubmissions@ustr.eop.gov. See the submission instructions below.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, contact USTR Assistant General Counsels Philip Butler or Benjamin Allen at (202) 395-5725.

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 40823 (August 16, 2018), 83 FR 47974 (September 21, 2018), 83 FR 65198 (December 19, 2018), 84 FR 7966 (March 5, 2019), 84 FR 20459 (May 9, 2019), 84 FR 43304 (August 20, 2019), and 84 FR 45821 (August 30, 2019).

Effective July 6, 2018, the U.S. Trade Representative imposed additional 25 percent duties on goods of China classified in 818 8-digit subheadings of the Harmonized Tariff Schedule of the United States (HTSUS), with an approximate annual trade value of $34 billion. *See* 83 FR 28710. The U.S. Trade Representative's

determination included a decision to establish a process by which U.S. stakeholders can request exclusion of particular products classified within an 8-digit HTSUS subheading covered by the $34 billion action from the additional duties. The U.S. Trade Representative issued a notice setting out the process for the product exclusions, and opened a public docket. *See* 83 FR 32181 (the July 11 notice).

The July 11 notice required submission of requests for exclusion from the $34 billion action no later than October 9, 2018, and noted that the U.S. Trade Representative periodically would announce decisions. The U.S. Trade Representative granted multiple sets of exclusions. The second set of exclusions was granted in March 2019, and are scheduled to expire on March 25, 2020. *See* 84 FR 11152 (March 25, 2019) (March 2019 notice).

B. Possible Extensions of Particular Product Exclusions

The U.S. Trade Representative has decided to consider a possible extension for up to 12 months of particular exclusions granted in the March 2019 notice. Accordingly, USTR invites public comments on whether to extend particular exclusions granted in the March 2019 notice. At this time, USTR is not considering comments concerning possible extensions of exclusions granted under any other product exclusion notice.

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 July 2018, 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 July 2018 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 July 2018 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.

USTR strongly encourages that commenters complete Form A (which will be posted on USTR's website by the time the docket opens) and submit the completed Form A to https://www.regulations.gov. The docket number is USTR-2019-0024. USTR will post completed Form A's on the public docket.

In addition to submitting Form A, commenters who are importers and/or purchasers of the products covered by the exclusion also should complete Form B (which will be posted on USTR's website by the time the docket opens) and submit it, along with a copy of their completed Form A, via email at 301bcisubmissions@ustr.eop.gov. Form A must be submitted via email with Form B and submitted as a single document (without Form B) to docket USTR-2019-0024 at https://www.regulations.gov.

Form B requests BCI information, and will not be posted on the public docket. To facilitate advance preparation of submissions, facsimiles of Forms A and B are annexed to this notice and will be available electronically at https://ustr.gov/issue-areas/enforcement/section-301-investigations/section-301-china/34-billion-trade-action.

Set forth below is a summary of the information to be entered on Form A:

- 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 publication date of the Federal Register notice containing the exclusion on which you are commenting. Since USTR at this time only is considering exclusions granted by the March 2019 notice, this field must specify March 25, 2019.
- The full article description for the exclusion you are commenting on and the 10-digit code, as provided in the Federal Register notice granting the exclusion. Please indicate if the exclusion is a 10-digit HTSUS code (covering all products under a single 10-digit HTSUS number).
- 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 is submitting a Form B with more detailed, confidential information.
- Whether the products covered by the exclusion or comparable products are available from sources in the U.S. or in third countries. Please include information concerning any changes in the global supply chain since July 2018 with respect to the particular product.
- Whether the commenter will be submitting Form B.

As indicated above, information submitted on Form B will not be publically available. Form B requires commenters who are importers and/or purchasers of the products covered by the exclusion to provide the following information:

- The efforts you have undertaken since July 2018 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, the first half of 2018, and the first half of 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, the first half of 2018, and the first half of 2019.
- If applicable, the commenter's gross revenue for 2018, the first half of 2018, and the first half of 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 in support or in opposition of the extending the exclusion.

Commenters also may provide any other information or data that they consider relevant.

C. Submission Instructions

To be assured of consideration, you must submit your comment between the opening of the docket on January 15, 2020, and the February 15, 2020 submission deadline. By submitting a comment, you are certifying that the information provided is complete and correct to the best of your knowledge.

D. Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, USTR submitted a request to the Office of Management and Budget (OMB) for emergency review and clearance of this information collection request (ICR) titled *301 Exclusion Requests.* OMB assigned control number 0350-0015.

USTR issued notice and requested comments regarding its intent to seek approval of a three-year extension of the control number for the information request on August 22, 2019 and November 1, 2019. 84 FR 43853, 84 FR 58802. OMB currently is reviewing USTR's submission for a three-year extension and has informed USTR that the control number is valid during the pendency of its review.

Joseph Barloon
General Counsel
Office of the U.S. Trade Representative.

OMB Control Number: 0350-0015 Expiration Date: January 31, 2020

OMB is reviewing USTR's submission for extension of the control number and has informed USTR that it is valid during the pendency of its review.

Exclusion Extension Comment
Form A

Information in Form A should be submitted on the Public Docket at https://www.regulations.gov.

1. Submitter Information

Full Organization Legal Name **(Public)**

Commenter First Name **(Public)**

Commenter Last Name **(Public)**

Contact Email Address **(Public)**

Note: If you do not wish to provide a public email address, a private email address may be provided when you submit this form on Regulations.gov. Please check the box that reads "I want to provide my contact information" and enter your email address in the designated field.

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 **(Public)**

Third Party Last Name **(Public)**

2.

a) Please provide the publication date of the Federal Register notice containing the exclusion you are commenting on. (Public)

b) Please provide the 10-digit subheading of the HTSUS applicable to the exclusion you are commenting on. ***A 10-digit HTSUS number is required.*** **(Public)**

c) From the Federal Register notice, please provide the full article description for the exclusion. If the exclusion is a 10-digit code, please indicate. (Public)

d) 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, even if you are also submitting a Form B with more detailed, confidential information.) (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 July 2018 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 July 2018 with respect to the particular product.)** **(Public)**

6. **Will you be submitting Form B?** **(Public)**

Note: Responses to Form A should be submitted to the Public Docket at Regulations.gov (Information submitted in Form A will be posted on the Public Docket).

OMB Control Number: 0350-0015 Expiration Date: January 31, 2020

OMB is reviewing USTR's submission for extension of the control number and has informed USTR that it is valid during the pendency of its review.

Exclusion Extension Comment
Form B

Form B should be completed by <u>Importers</u> and <u>Purchasers</u> of the products covered by the exclusion. Form B should be submitted via email at <u>301bcisubmissions@ustr.eop.gov</u> and will not be available to the public. Please include Form A with your email submission of Form B.

NOTE: Form A should be submitted both on regulations.gov and with Form B, via email. Please include your Regulations.gov tracking number when submitting Form B.

1.

a.) Please provide the value in USD and quantity (with units) of the <u>Chinese-origin</u> product covered by the specific exclusion that you purchased in 2018, the first half of 2018, and the first half of 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:		**2018 Quantity:**	
2018 (Jan-Jun) Value:		**2018 (Jan-Jun) Quantity:**	
2019 (Jan-Jun) Value:		**2019 (Jan-Jun) Quantity:**	

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)

2. 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, the first half of 2018, and the first half of 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:		**2018 Quantity:**	
2018 (Jan-Jun) Value:		**2018 (Jan-Jun) Quantity:**	
2019 (Jan-Jun) Value:		**2019 (Jan-Jun) Quantity:**	

Are the provided figures estimates? (BCI)

3. **Please provide the value in USD and quantity (with units) of the product covered by the specific exclusion that you purchased from <u>domestic sources</u> in 2018, the first half of 2018, and the first half of 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:		**2018 Quantity:**	
2018 (Jan-Jun) Value:		**2018 (Jan-Jun) Quantity:**	
2019 (Jan-Jun) Value:		**2019 (Jan-Jun) Quantity:**	

Are the provided figures estimates? (BCI)

4. **Please discuss any efforts you have undertaken since July 2018 to source this product from United States or third countries. (BCI)**

5. **Please provide information regarding your company's gross revenue in USD for 2018, the first half of 2018, and the first half of 2019. (BCI)**

2018 Gross Revenue:	
First Half (Jan-Jun) 2018:	
First Half (Jan-Jun) 2019:	
Are the provided figures estimates? (BCI)	

6. **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)**

7. **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)**

8. **Please provide any additional information in support of your request, taking account of the instructions provided in Section [B] of the Federal Register notice. (BCI)**

9. **Please provide the Regulations.gov tracking number for your Form A submission (e.g. 1kx-xx-xxxx). (BCI)**