

[Billing Code 3290-F9]

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

**Notice of Modification of Section 301 Action: 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 modification of action.

SUMMARY: In accordance with the direction of the President, the U.S. Trade Representative (Trade Representative) has determined to modify the action being taken in this Section 301 investigation by postponing the date on which the rate of the additional duties will increase to 25 percent for the products of China covered by the September 2018 Action in this investigation. The rate of additional duty for the products covered by the September 2018 action will remain at 10 percent until further notice.

DATES: The rate of additional duty will remain at 10 percent with respect to products covered by the September 2018 action until further notice.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, contact Associate General Counsel Arthur Tsao, Assistant General Counsel Megan Grimball, or Director of Industrial Goods Justin Hoffmann at (202) 395-5725. For questions on customs classification or implementation of additional duties on products covered by the September 2018 action, contact traderemedy@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

A. September 2018 Action

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), and 83 FR 40823 (August 16, 2018).

In a notice published on September 21, 2018 (83 FR 47974), the Trade Representative, at the direction of the President, announced a determination to modify the action being taken in the investigation by imposing additional duties on products of China with an annual trade value of approximately \$200 billion. The rate of additional duties initially was 10 percent. Those additional duties were effective starting on September 24, 2018, and currently are in effect. Under Annex B of the September 21 notice, the rate of additional duty was set to increase to 25 percent on January 1, 2019. In the September 21 notice, the Trade Representative stated that he would continue to consider the actions taken in this investigation, and if further modifications were appropriate, he would take into account the extensive public comments and testimony previously provided in response to the notices published on July 17, 2018 (83 FR 33608) and August 7, 2018 (83 FR 38760).

On September 28, 2018 (83 FR 49153), the Trade Representative issued a conforming amendment and modification of the September 21 action. The current notice refers to the September 21 action, as modified by the September 28 notice, as the “September 2018 action.”

On December 19, 2018 (83 FR 65198), in accordance with the direction of the President, the Trade Representative determined to modify the September 2018 action by postponing until March 2, 2019, the increase in the rate of the additional duty to 25

percent. The Annex to the December 19 notice, which superseded Annex B to the September 21 notice, amended the HTSUS to reflect this postponement of the increase in the rate of duty applicable to the September 2018 action.

B. Determination to Further Modify September 2018 Action

The United States is engaging with China with the goal of obtaining the elimination of the acts, policies, and practices covered in the investigation. The leaders of the United States and China met on December 1, 2018, and agreed to hold negotiations on a range of issues, including those covered in this Section 301 investigation. *See* <https://www.whitehouse.gov/briefings-statements/statement-press-secretary-regarding-presidents-working-dinner-china/>. Since the meeting on December 1, the United States and China have engaged in additional rounds of negotiation on these issues. In light of progress in discussions with China, on February 24, 2019, the President directed the Trade Representative to postpone the increase in tariffs scheduled for March 2, 2019.

Section 301(b) of the Trade Act of 1974, as amended (Trade Act), provides that the Trade Representative “shall take all appropriate and feasible action authorized under [Section 301(c)] to obtain the elimination of [the] act, policy, or practice [under investigation].” Section 307(a)(1) of the Trade Act authorizes the Trade Representative to modify or terminate any action being taken under Section 301, subject to the specific direction, if any, of the President if “the burden or restriction on United States commerce . . . of the acts, policies, and practices, that are the subject of such action has increased or decreased, or such action is being taken under Section [301(b)] of this title and is no longer appropriate.” In light of progress of the additional rounds of negotiations since December 2018, and at the direction of the President, the Trade Representative has

determined that it no longer is appropriate for the rate of duty under the September 2018 action to increase to 25 percent on March 2, 2019, and that the rate of duty under the September 2018 action will remain at 10 percent until further notice.

The Trade Representative's decision to modify the September 2018 action takes into account the extensive public comments and testimony, as well as advice from advisory committees, concerning the actions proposed in the notices issued in advance of the September 2018 action (83 FR 33608 and 83 FR 38760). Those notices, among other things, requested comments on whether the rate of additional duties should be 10 percent or 25 percent. The Trade Representative's decision also reflects the advice of the interagency Section 301 Committee.

To effectuate the Trade Representative's decision, Annex B of the September 21 notice (83 FR 47974) and the Annex to the December 19 notice (83 FR 65198), hereby are rescinded. In accordance with Annex A of the September 21 notice, the rate of duty under the September 2018 action will remain at 10 percent until further notice.

Stephen P. Vaughn
General Counsel, Office of the United States Trade Representative.