

CSMS #18-000419

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Title: **UPDATE: Sec. 301 Trade Remedies to be Assessed on Certain Products from China 7/6/18**

Date: 7/3/2018 11:47:43 AM

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UPDATED VERSION WITH FILING REQUIREMENTS FOR CHAPTER 98 ENTRIES AND INFORMATION ON DRAWBACK ELIGIBILITY

BACKGROUND:

On August 18, 2017, the Office of the United States Trade Representative (USTR) initiated an investigation under Section 301 of the Trade Act of 1974 into the government of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation. On March 22, 2018, the USTR issued a notice of determination and request for comments that stated that the government of China's acts, policies, and practices covered by the investigation were found to be actionable under Section 301(b) of the Trade Act. The notice proposed the imposition of additional import duties on a preliminary list of 1,300 Chinese products, and indicated that a final list would be forthcoming after the period for public comment expired. See Federal Register, 83 FR 14906. On June 15, 2018, the USTR issued a notice of action providing for the imposition of additional import duties on a final list of Chinese products. See Federal Register 83 FR 28710.

GUIDANCE:

The additional import duties for Chinese goods covered by the Section 301 action will be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after 12:01 AM Eastern Standard Time on July 6, 2018.

Products Covered by the Section 301 Action

The USTR has issued a final list of products covered by the Section 301 action, represented by their eight digit Harmonized Tariff Schedule of the United States (HTSUS) subheadings. The list comprises over 800 eight-digit HTSUS numbers, and is published in Annex A to the USTR's Notice of Action. Any article classified in a subheading covered by this list that is a product of China would be subject to a 25% ad valorem duty rate, in addition to the general (Column 1) rate of duty for that particular subheading.

In addition to reporting the Chapters 1-97 HTSUS classification of the imported merchandise, importers shall also report the 9903.88.01 special tariff number for goods subject to the additional duty assessment of 25% ad valorem as a result of the Section 301 trade remedy.

9903.88.01: 25% ad valorem additional duty for articles the product of China

The Section 301 duties currently only apply to products of China, and are based on the country of origin, not country of export.

Additional Information

CHAPTER 98

The rates of duty imposed by subheading 9903.88.01 shall not apply to products for which entry is properly claimed under a heading or subheading in Chapter 98.

When submitting an entry in which a heading or subheading in Chapter 98 is claimed on merchandise covered by the Section 301 remedy, a filer must first report subheading 9903.88.01, followed by the applicable Chapter 98 subheading, and the Chapter 1-97 HTSUS classification for the commodity being imported.

DRAWBACK

Section 301 duties are eligible for duty drawback.

TRADE PREFERENCE PROGRAMS

Products from China subject to the Section 301 trade remedy that are eligible for special tariff treatment under General Note 3(c)(i) to the HTSUS shall be subject to the additional 25 percent ad valorem rate of duty imposed by heading 9903.88.01.

FOREIGN TRADE ZONES

Per the Federal Register Notice published by the USTR, any product listed in Annex A, except any product that is eligible for admission under 'domestic status' as defined in 19 CFR 146.43, which is subject to the additional duty imposed by this determination, and that is admitted into a U.S. foreign trade zone on or after 12:01 am eastern daylight time on July 6, 2018, only may be admitted as 'privileged foreign status' as defined in 19 CFR 146.41. Such products will be subject upon entry for consumption to any ad valorem rates of duty or quantitative limitations related to the classification under the applicable HTSUS subheading.

PRODUCT EXCLUSIONS

The Federal Register Notice indicates that the USTR will establish a process by which U.S. stakeholders may request that particular products classified within an HTSUS subheading listed in Annex A be excluded from the additional Section 301 duties. USTR will publish a separate notice concerning the product exclusion process, and CBP will provide additional guidance on the matter as it becomes available.

FOR FURTHER INFORMATION:

For further information, please refer to the USTR's Notice of Action and Request for Public Comment Concerning Proposed Determination of Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation, issued on June 15, 2018.

Questions related to Section 301 entry filing requirements should be emailed to traderemedycbp@dhs.gov. Questions from the importing community concerning ACE rejections should be referred to their Client Representative.