

PUBLICATION

Certain Health Care Products Could Have Section 301 Duties Reinstated

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The United States Trade Representative (USTR) is likely to reinstate Section 301 tariffs on 81 COVID pandemic-related products. The 81 health care products that will be affected include, but are not limited to, these items:

- Compound optical microscopes
- Ultrasonic scanning apparatus
- MRIs
- Blood pressure monitors
- Hand soaps and sanitizers
- Disposable gloves
- Single-use medical masks

USTR is requesting public comment about whether to extend the current Section 301 exemption for the identified health care products for up to six months. Users (including hospitals), importers, domestic manufacturers, and any other interested party may submit comments to USTR. The deadline to comment about whether to extend or end each exclusion is March 7, 2023.

Possible Exclusions Could Be Considered by USTR

USTR issued its [Notice](#) of Interim Extension and Request for Comments on COVID-Related Product Exclusions in the Section 301 investigation of China earlier this month.¹ The current exemption for these health care products remains in place until May 15, 2023. USTR, however, seeks to reevaluate the current exemption for these 81 health care products and has requested that the public provide comments regarding these exemptions by March 7, 2023.

USTR will evaluate whether it remains appropriate to exclude certain products from Section 301 duties considering changing circumstances, including the spread of variants or subvariants and the increased domestic production and availability of certain products. USTR will then evaluate each exclusion on a case-by-case basis, considering of the overall impact of the exclusions on the goals of the Section 301 investigation of China.

Background on the Section 301 Tariffs

In August 2017, the Trump Administration initiated a Section 301 investigation into China's unfair policies and practices related to technology transfer, intellectual property, and innovation. In March 2018, USTR issued its Section 301 Report and determined that China's actions related to intellectual property were unreasonable or discriminatory and burdened or restricted U.S. commerce. After unproductive engagement with China, USTR imposed tariffs on China's imports as a response to China's unfair trade practices related to the forced transfer of American technology and intellectual property. On December 31, 2020, all exclusions expired except COVID pandemic-related ones.

For assistance with providing comments to the USTR, or any questions related to this alert, please contact [Lee Smith](#) or any member of Baker Donelson's [Global Business](#) Team.

¹ Interim Extension and Request for Comments on COVID-Related Product Exclusions, 88 Fed. Reg. 25,8027, 25,8028 (Feb. 7, 2023), <https://www.govinfo.gov/content/pkg/FR-2023-02-07/pdf/2023-02570.pdf>.