

# USTR Seeks Comments on Interplay of Section 301 Duties and COVID-19; CBP Signals Openness to Deferred Duty Payments

March 23, 2020

Since July of 2018, the Administration has imposed additional tariffs, ranging from 15 – 25%, on four successive rounds of Chinese products, under Section 301 of the Trade Act of 1974. The Administration has also conducted exclusion processes with respect to each round, allowing importers and other affected parties to request limited, one-year exclusions from the duties for specific products.

As global supply chains have come under pressure from the coronavirus (COVID-19) pandemic, stakeholders have expressed concern as to the impact of Section 301 duties on the United States' ability to access critical supplies, and on individual companies' ability to weather the virus's economic shocks. Likewise, importers have expressed concern about their ability to timely pay import duties to U.S. Customs & Border Protection (CBP).

On March 20, 2020, the Office of the U.S. Trade Representative (USTR) announced that it would formally collect comments from stakeholders on the degree to which modifications of existing Section 301 tariffs may be necessary to assist in the national fight against COVID-19. In the notice, USTR notes that many medical supplies have already been exempted from the scope of the tariffs, including ventilators, masks, and thermometers.

USTR intends to collect these comments on a rolling basis. Currently, the deadline for filing is June 25, 2020, but USTR has indicated that it may extend the comment collection beyond that date.

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On the same day that USTR announced its new comment collection, CBP issued a new Cargo Systems Message indicating that the agency will consider, on a case by case basis, authorizing additional time for importers to pay estimated duties, taxes, and fees in conjunction with import shipments.

Normally, importers are required to pay the duties that they believe are owed by reason of the tariff classification/origin of their products shortly after the date that the goods enter the United States, after which CBP has a period of time in which to confirm and finalize the amount of duties owed. CBP's new message indicates that, given the difficulties that COVID-19 poses with respect to locating company personnel, cash flow, and other issues that impact duty payment, the agency is prepared to flexibly respond to ensure that trade keeps moving. The agency intends to issue more concrete guidance in the coming days with respect to such duty-payment extensions.

If you have questions regarding Section 301 duties, USTR's new comment collection, or the conditions under which CBP will permit an extension of the deadlines for duty payments, Wiley's international trade team is standing by, ready to help.

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