



## **OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE**

### **Request for Comments on Certain Products Exclusions Related to COVID-19:**

### **China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation**

**AGENCY:** Office of the United States Trade Representative (USTR).

**ACTION:** Notice and request for comments.

**SUMMARY:** In prior notices, the U.S. Trade Representative modified the action in the Section 301 investigation of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation by excluding from additional duties certain medical-care products needed to address the COVID-19 pandemic. These exclusions are scheduled to expire on September 30, 2021. In light of developments in the production capacity of the United States in the subject products and continuing efforts in the battle against COVID-19, USTR is requesting public comments on whether to extend particular exclusions past September 30, 2021.

#### **DATES:**

August 27, 2021: The public docket on the web portal at <https://comments.USTR.gov> will open for parties to submit comments.

September 27, 2021 at 11:59 p.m. ET: To be assured of consideration, submit written comments on the public docket by this time.

**ADDRESSES:** You must submit all comments through the online portal:

<https://comments.USTR.gov>

**FOR FURTHER INFORMATION CONTACT:** Associate General Counsel Philip Butler or Assistant General Counsel Edward Marcus at (202) 395-5725.

#### **SUPPLEMENTARY INFORMATION:**

##### **A. Background**

In the course of this investigation the U.S. Trade Representative has imposed additional duties on products of China in four tranches. *See* 83 FR 28719 (June 20, 2018); 83 FR 40823 (August 16, 2018); 83 FR 47974 (September 21, 2018) as modified by 83 FR 49153 (September 28, 2018); and 84 FR 43304 (August 20, 2019) as modified by 84 FR 69447 (December 18, 2019) and 85 FR 3741 (January 22, 2020).

For each tranche, the U.S. Trade Representative established a process by which U.S. stakeholders could request the exclusion of particular products subject to the action. The U.S. Trade Representative later established a process by which U.S. stakeholders could request the extension of particular exclusions. Additionally, on March 25, 2020, the U.S. Trade Representative requested public comments on possible further modifications to remove Section 301 duties from additional medical-care products to address the COVID-19 pandemic. 85 FR 16987 (March 25, 2020).

On December 29, 2020, USTR announced the extension of 80 product exclusions on medical-care and/or COVID response products; further modifications, in the form of 19 product exclusions, to remove Section 301 duties from additional medical-care and/or COVID response products; and that USTR might consider further extensions and/or modifications as appropriate. *See* 85 FR 85831 (the December 29 notice). On March 10, 2021, USTR announced the extension of these 99 exclusions to September 30, 2021; and that USTR might consider further extensions and/or modifications as appropriate. *See* 86 FR 13785.

## **B. Request for Public Comments**

Subsequent to USTR's announcement of the extension of the 99 exclusions for COVID-19 response products in March, the spread of COVID-19 in the United States initially declined, and domestic production of certain products covered by these exclusions increased. With the recent spread of the Delta variant, COVID-19 cases in the United States are increasing again. In light of these changing circumstances, including the

ability of the United States to obtain certain products domestically or from other sources, USTR is requesting public comments on whether to extend particular exclusions for COVID-19 products for up to six months.

USTR will evaluate each exclusion on a case-by-case basis. The evaluation will examine whether it remains appropriate to exclude certain products from the additional Section 301 duties in light of recent developments including the spread of the Delta variant in the United States and increased domestic production of certain products, and taking account of the overall impact of these exclusions on the goal of obtaining the elimination of China's acts, policies, and practices covered in this Section 301 investigation.

### **C. Procedures to Comment on Particular COVID-19 Exclusions**

The 99 COVID exclusions can be found in the four annexes (A, B, C, and D) of the December 29 notice. To submit a comment regarding any particular COVID-19 exclusion, a commenter first must register on the portal at <https://comments.USTR.gov>. As noted above, the public docket on the portal will be open from August 27, 2021, to September 27, 2021. After registration, the commenter may submit a comment form to the public docket. Fields on the comment form marked with an asterisk (\*) are required fields. Fields with a gray (BCI) notation are for business confidential information, which will not be publicly available. Fields with a green (Public) notation will be publicly available. Additionally, parties will be able to upload documents and indicate whether the documents are BCI or public. Commenters will be able to review the public version of their comments before they are posted.

Set out below is a summary of the information to be entered on the exclusion comment form.

- 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 annex (annexes A, B, C, or D) of the December 29 notice (85 FR 85831) with the exclusion you are commenting on, the specific exclusion (number for the exclusion on which you are commenting as provided in the annex of the December 29 notice).
- Whether you support or oppose extending the exclusion beyond September 30, 2021.
- Rationale for supporting or opposing an extension.

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

#### **D. Submission Instructions**

To be assured of consideration, you must submit your comment when the public docket on the portal is open – from August 27, 2021, to September 27, 2021. Parties seeking to comment on two or more exclusions must submit a separate comment for each exclusion. By submitting a comment, the commenter certifies that the information provided is complete and correct to the best of their knowledge.

**Greta M. Peisch,**  
*General Counsel,*  
*Office of the United States Trade Representative.*