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USTR Considers 301 Tariff Exemption Requests for COVID-19 Medical Supplies

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Hughes Hubbard & Reed LLP • A New York Limited Liability Partnership
One Battery Park Plaza • New York, New York 10004-1482 • +1 (212) 837-6000

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March 25, 2020 – As the country faces the global health crisis caused by the COVID-19 outbreak, recent announcements by the Office of the U.S. Trade Representative (“USTR”) signal the possibility of some relief from special tariffs on imports from China. Since July 2018, as reported previously [here](#), the Trump Administration has imposed tariffs under Section 301(b) of the Trade Act of 1974 on nearly all U.S. imports of Chinese goods, including medical supplies that are now in high demand because of the outbreak. USTR based the tariffs on its findings in an investigation of China’s acts, policies, and practices related to technology transfer, intellectual property, and innovation. There have been four rounds of tariffs, broadening the scope of products that are affected. With each round, USTR allowed requests for exclusion of particular products that are not adequately available in the United States. Prior to the most recent announcements, the opportunity to request exclusions from any or all of the four lists had lapsed, but USTR continued to consider whether to grant requests that had already been filed but remained outstanding.

National priorities have changed as the COVID-19 outbreak in the United States has worsened, increasing the need for medical supplies. On March 25, USTR [published](#) a notice of the opportunity to request additional exclusions for products expected to be helpful in responding to the crisis. Requests can be made through the online portal [regulations.gov](https://www.regulations.gov), but the window closes June 25, 2020, unless extended. Requests “specifically must identify the particular product of concern and explain precisely how the product relates to the response to the COVID-19 outbreak. For example, the comment may address whether a product is directly used to treat COVID-19 or to limit the outbreak, and/or whether the product is used in the production of needed medical-care products.” Decisions will be made on a rolling basis. Any responses to exclusion requests should be submitted within three business days after a request is posted.

In addition, USTR states that it has been prioritizing, in consultation with the U.S. Department of Health and Human Services, the processing of previously filed exclusion requests “addressed to medical-related products related to the U.S. response to COVID-19,” granting approximately 200 separate exclusions on [March 10, 2020](#),

[March 16, 2020](#), and [March 17, 2020](#). Products excluded in this manner have included medical masks and other personal protective products.

If you have any questions about the tariff exclusion process, please contact the experienced attorneys at Hughes Hubbard & Reed.

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