

## Insights

# US TRADE CONTINUES TO FLOW WITH SOME OPERATIONAL ADJUSTMENTS, NEW SECTION 301 EXCLUSIONS

Mar 27, 2020

The domestic and international response to the spread of COVID-19, the disease caused by the novel coronavirus, continues to evolve rapidly, including with respect to the US trade landscape. Although we have still seen no specific impact on the flow of goods into or outside of the United States, various US agencies with responsibility over the nation's trade laws have begun adjusting their operations in response.

## Section 301 Tariffs

The Office of the US Trade Representative (USTR) has continued its review of requests to exclude certain Chinese-origin products from the additional tariffs imposed as part of its Section 301 action. Health industry and medical-related requests are now being prioritized in the review process, and USTR has recently granted exclusions for certain medical supplies needed to respond to the pandemic, including certain personal protective equipment. On Friday, March 20, USTR took further action and announced a separate process, later published in the Federal Register, by which the public may comment on the removal of tariffs from additional medical products that are relevant to the medical response to the COVID-19 crisis. Each comment must identify the product of concern by the applicable 10-digit HTSUS subheading and include an explanation of "how the product relates to the response to the COVID-19 outbreak." Comments may be submitted in the public docket through at least June 25, 2020, and will be reviewed on a rolling basis.

## Operational Changes

Both the Directorate of Defense Trade Controls (DDTC) and US Census Bureau (Census) have begun accepting voluntary disclosure submissions through electronic means. Disclosures and related information may be provided to DDTC in PDF format via email to DTCC-CaseStatus@state.gov (with no duplicate hard copy required). Similarly, Census has requested that voluntary self-disclosures be provided in password-protected files via email to emd.askregs@census.gov. As much of the Federal workforce continues to operate remotely (with maximum telework flexibility as of the date of this writing), we anticipate that the Bureau of

Industry and Security and Office of Foreign Assets Control may soon follow suit and begin accepting voluntary self-disclosures via email or other electronic platform, though these agencies have not yet published any guidance in this regard.

US Customs and Border Protection (CBP) has also encountered certain operational challenges, [indicating in an alert](#) that processing of binding ruling requests, particularly those submitted in hard copy format or involving submission of a sample, has been delayed due to COVID-19. CBP recommends that all ruling requests be submitted through the [eRulings portal](#) and include detailed photographs or videos in lieu of samples whenever possible.

In addition, CBP has fluctuated with respect to its position concerning allowing more time to pay duties. Last Friday, March 20, [CBP announced](#) that it would approve on a case-by-case basis requests for additional days in which to make payments owed to CBP, including for duties, taxes, and fees, due to the COVID-19 national emergency. CBP reportedly received and approved many such requests. However, in a turn of events on Thursday, March 26, potentially following [pushback from certain US producers](#), [CBP declared](#) that it would no longer accept requests to extend payment deadlines due to the outbreak. Following this reversal of position, the agency stated it may still consider allowing additional days for payments in limited circumstances, such as a physical inability to file entry or because of port closures. Operations at [two public container terminals](#) in the Port of Houston were [shut down](#) last week after an employee tested positive for the novel coronavirus; the overall port operations were not affected, and those terminals have since [reopened](#). There are no plans to close ports of entry at this time, but there has been some indication that additional duty-related measures, including a broader extension of duty payments, may still be under consideration by the Administration and/or Congress.

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