

## US extends deadline for payment of duties and taxes, provides guidance on ruling requests and issues a statement regarding COVID-19

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On 20 March 2020, the United States (US) Trump Administration announced three key statements related to trade matters impacted by the novel Coronavirus disease (COVID-19).

#### Extension provision for payment of duties and taxes

The US Customs and Border Protection (CBP) issued a Cargo Systems Messaging Service (CSMS) announcing that extensions to payments of customs duties, taxes and fees may be approved.<sup>1</sup> Approvals will be made on a case-by-case basis.

Requests for additional days for payment should be sent to the Office of Trade, Trade Policy and Programs at [OTentrysummary@cbp.dhs.gov](mailto:OTentrysummary@cbp.dhs.gov).

#### Potential delays in processing of binding rulings

CBP also announced that the processing operations of the National Commodity Specialist Division's Customs Exchange branch has been impacted by the COVID-19 disruption. While Customs is still accepting binding ruling requests, it stated that paper binding ruling requests and ruling requests that require samples may experience a delay in processing.<sup>2</sup> Accordingly, Customs recommends all binding ruling requests be made through eRulings (<https://erulings.cbp.gov/s/>).

Further, to address concerns with physical samples to be provided for consideration in a ruling request, CBP is suggesting that detailed photographs or short videos should be provided under the eRulings portal. Companies should expect communications from the National Import Specialist assigned to the ruling request to discuss options.

### **Statement from the United States Trade Representative regarding COVID-19**

The United States Trade Representative (USTR) released a formal statement regarding its ongoing Section 301<sup>3</sup> actions to combat China's acts, policies and practices related to technology transfer, intellectual property, and innovation, stating that health considerations were contemplated and prioritized in the determination of the current additional duties in place for a wide range of China origin goods (currently, tariffs of 25% are applied to US\$250B of goods with another 7.5% tariff being applied on US\$120B of goods).<sup>4</sup>

The USTR states that it has purposely limited any duties to be applied on certain critical products such as ventilators, oxygen masks, and nebulators. The USTR notice also details that the US has granted exclusions for a large number of health-related products and that the USTR notably highlights that US imports of all critical medical and pharmaceutical products have increased significantly since the imposition of Section 301 tariffs in 2017.

The Statement provides further details of actions taken by the Administration to limit subjectivity of Section 301 tariffs to critical medicines and other essential medical products and components for a wide range of devices. The USTR also has announced a docket has been opened to permit submission of comments for those believing further modifications to the 301 tariffs may be necessary.

Per a Federal Register Notice (FRN) published by the USTR, the docket for public comments will remain open until at least 25 June 2020, with the USTR noting the deadline may be extended as appropriate. Comments will be reviewed on a rolling basis.<sup>5</sup>

Additionally, the USTR requests that each comment describes the product of concern in as much detail as possible, such as providing the ten-digit subheading of the HTSUS (Harmonized Tariff Schedule of the United States) applicable to the product, and the identity of the particular product in terms of its functionality and physical characteristics (e.g., dimensions, material composition, or other characteristics). Comments should also provide specifics around how the product is related to response to COVID-19 (e.g., how the product is used to treat or combat COVID-19).

To submit comments, interested parties should go to [www.regulations.gov](http://www.regulations.gov), enter docket number USTR-2020-0014. The USTR notes no hand delivered submissions will be accepted.

### **Actions for businesses**

Companies who are experiencing financial hardships due to COVID-19 are encouraged to submit payment delay requests to CBP as directed by the CSMS.

Additionally, it should be noted that 20 March 2020 debit authorizations for the Periodic Monthly Statements (PMS) and the daily statements have already been transmitted to the Department of Treasury for fund withdrawal. Any company wishing to cancel payment to request a payment extension should work directly with their financial institution to cancel the current payment.

Any importers who are submitting rulings for business certainty around aspects such as classification or origin for Section 301 purposes should consider the impact delay in ruling request processing could have on their business. Importers are encouraged to begin planning for reasonable care memorandums or additional support of their positions in lieu of binding rulings for the time being.

Companies impacted by the Section 301 tariffs on certain imported medicines or components should review the procedure and requirements for submitting comments for consideration.

## Endnotes

1. See CSMS #42097586 - Additional Days for Payments due to COVID-19.
2. See Cargo Systems Messaging Service CSMS #42092162 - Information on Processing of Binding Ruling Requests by CBP's National Commodity Specialist Division.
3. Section 301 actions are provided for under the *Trade Act of 1974*.
4. See USTR press release "USTR: Response to Coronavirus Crisis."
5. See Request for Comments on Additional Modifications to the 301 Action to Address COVID-19: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation.

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