



September 27, 2021

The Honorable Katherine Tai  
United States Trade Representative  
Office of the United States Trade Representative  
600 17th Street NW  
Washington, DC 20006

**Re: 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 (Docket No. USTR-2021-18521)**

Dear Ambassador Tai,

On behalf of the National Retail Federation, we appreciate the opportunity to provide comments on the 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 (Docket No. USTR-2021-18521) issued by the Office of the United States Trade Representative (USTR) on August 27, 2021. In general, we believe that USTR should extend the exclusions granted for certain medical-care products needed to address the COVID-19 pandemic.

NRF, the world's largest retail trade association, passionately advocates for the people, brands, policies and ideas that help retail thrive. From its headquarters in Washington, D.C., NRF empowers the industry that powers the economy. Retail is the nation's largest private-sector employer, contributing \$3.9 trillion to annual GDP and supporting one in four U.S. jobs — 52 million working Americans. For over a century, NRF has been a voice for every retailer and every retail job, educating, inspiring and communicating the powerful impact retail has on local communities and global economies.

The president has made it a priority to battle the COVID-19 pandemic and the delta variant. To do that, it is imperative that we have access to critical medical-care products and personal protective equipment (PPE) in sufficient quantities and affordable cost. Although it has increased in certain categories, U.S. production of PPE is still not enough to meet the demand of the American consumer or the American worker.

While we support the administration's efforts to ensure our trading partners live up to their trade commitments, we continue to believe that the Section 301 tariffs on over \$350 billion worth of goods from China are not the right solution. Worse still, the tariffs continue to have a negative impact on U.S. companies that rely on imports of PPE to fight the pandemic.

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With today's ongoing supply chain challenges, the nation's importers, including NRF's members, need to know they can get PPE in sufficient quantities, in a timely manner, and at costs that are not exorbitant. Extending the exclusions for these all-important items will help provide that. Specifically, our members have highlighted the following products that are essential for consumers as well as the workforce:

- Face masks
- Soap/disinfectant/hand sanitizer
- Gloves
- Soap dispensers
- Thermometers
- Blood pressure monitors
- Pulse oximeters

A full list of HTS codes for which we support an exclusion extension are included in Appendix A.

As we continue to combat COVID-19 and the delta variant with new mandates for vaccines and testing and a return of mask requirements, we need to be able to ensure a significant supply of these products to keep consumers and workers safe. China remains a significant source for many of these products. As we discussed when the tariffs were first put in place, production cannot be easily shifted to other countries for a variety of reasons, including a lack of a skilled workforce, equipment, machinery and available infrastructure. The pandemic has further complicated the ability to shift sourcing as global travel was shut down and proper inspections and audits of potential new partners could not be conducted.

Not granting an extension of the exclusions would result in a new 25 percent tax that would only add to the increased supply chain costs companies are facing right now and would lead to further cost increases for consumers. We should be working to make it easier for workers, consumers and medical professionals to get the products they need to combat the pandemic, not increasing costs and reducing availability.

We urge USTR to extend the exclusions provided for in this notice, especially the HTS numbers as identified by NRF members. We also encourage USTR to reestablish a general exclusion process for products subject to the China 301 tariffs, especially for those exclusions that previously expired. Thank you for your consideration.

Sincerely,



David French  
Senior Vice President  
Government Relations

**Appendix A**

| <b>Ch 99 Reference</b> | <b>Description</b>  | <b>HTS Line</b> | <b>Annex</b> | <b>List</b> |
|------------------------|---|-----------------|--------------|-------------|
| 20(ooo)(5)             | Protective Articles (described in statistical reporting number 9004.90.0000 prior to January 1, 2021; described in statistical reporting number 9004.90.0010 or 9004.90.0090 effective January 1, 2021)                                     | 9018.19.9530    | A            | 1           |
| 20(ooo)(7)             | Fingertip pulse oximeters suitable for use by medical professionals (described in statistical reporting number 9018.19.9550)  | 9018.19.9550    | A            | 1           |
| 20(ppp)(1)             | Clinical Infrared Thermometers  | 9025.19.8010    | B            | 2           |
| 20(ppp)(3)             | Infrared Thermometers, Other Than Clinical  | 9025.19.8060    | B            | 2           |
| 20(ppp)(4)             | Thermometers, Not Combined With Other Instruments   | 9025.19.8085    | B            | 2           |
| 20(ppp)(10)            | Dispensers of hand-cleaning or hand-sanitizing solutions, whether employing a manual pump or a proximity-detecting battery-operated pump, each article weighing not more than 3 kg (described in statistical reporting number 8424.89.9000) | 8424.89.9000    | B            | 2           |
| 20(qqq)(1)             | Disinfectants Containing Any Aromatic Or Modified Aromatic Disinfectant   | 3808.94.1000    | C            | 3           |
| 20(qqq)(4)             | Alcohol-based hand sanitizer containing 60 percent or more by weight of ethanol, of a kind described in statistical note 1 to this chapter /  | 3808.94.5080    | C            | 3           |
| 20(qqq)(4)             | Alcohol-based hand sanitizer containing 60 percent or more by weight of ethanol, of a kind described in statistical note 1 to this chapter /  | 3808.94.5090    | C            | 3           |
| 20(qqq)(5)             | Sacks And Bags (including Cones) Of Polymers Of Ethylene, Others  | 3923.21.0095    | C            | 3           |
| 20(qqq)(6)             | Articles Of Apparel & Clothing Accessories, of Plastic, others  | 3926.20.9050    | C            | 3           |
| 20(qqq)(7)             | Seamless disposable gloves of acrylonitrile butadiene rubber, other than for surgical or medical use (described in statistical reporting number 4015.19.1010)   | 4015.19.1010    | C            | 3           |

|             |  |              |   |   |
|-------------|--|--------------|---|---|
| 20(qqq)(8)  | Packing Containers, Others, Of Paper, Paperboard, Cellulose Wadding Or Webs Of Cellulose Fibers  | 4819.50.4060 | C | 3 |
| 20(qqq)(9)  |  | 5603.12.0090 | C | 3 |
| 20(qqq)(14) | Parts Of Mechanical Appliances For Projecting, Dispersing, Spraying Liquid/powder; Spray Guns And Similar Appliances, Other  | 8424.90.9080 | C | 3 |
| 20(qqq)(28) | Seamless disposable gloves of natural rubber latex, other than for surgical or medical use (described in statistical reporting number 4015.19.1010)  | 4015.19.1010 | C | 3 |
| 20(qqq)(29) | Seamless disposable gloves of natural rubber latex, other than for surgical or medical use (described in statistical reporting number 4015.19.1010)  | 4015.19.1010 | C | 3 |
| 20(qqq)(31) | Hand pumps (other than for fuel or lubricants, not fitted or designed to be fitted with a metering device), each used to dispense a metered quantity of liquid soap or sanitizer (described in statistical reporting number 8413.20.0000)  | 8413.20.0000 | C | 3 |
| 20(qqq)(32) | Hand pumps for liquids (other than those of subheading 8413.11 or 8413.19) of acrylonitrile butadiene styrene (ABS) plastics (described in statistical reporting number 8413.20.0000)  | 8413.20.0000 | C | 3 |
| 20(qqq)(35) | Compound binocular optical microscopes (other than stereoscopic microscopes and microscopes for photomicrography, cinemicrography or microprojection), each with magnification of 40X or more but not exceeding 1,000X, weighing not more than 3 kg (described in statistical reporting number 9011.80.0000) | 9011.80.0000 | C | 3 |
| 20(qqq)(36) | Compound optical microscopes (other than stereoscopic microscopes and microscopes for photomicrography, cinemicrography or microprojection), each with magnification of 40X or more but not exceeding 400X, weighing not more than 15 kg (described in statistical reporting number 9011.80.0000)            | 9011.80.0000 | C | 3 |

|             |   |              |   |    |
|-------------|---|--------------|---|----|
| 20(rrr)(1)  | Soap & Other Organic Surf-act Products,not For Toilet Use, In Bars,cakes, Molded Pieces, And Paper,etc Impregnated Or Coated With Soap Or Detergent   | 3401.19.0000 | D | 4a |
| 20(rrr)(2)  | Laboratory Ware of Plastics   | 3926.90.9910 | D | 4a |
| 20(rrr)(4)  | Medical Gloves, Of Vulcanized Rubber Other Than Hard Rubber, Others   | 4015.19.0550 | D | 4a |
| 20(rrr)(4)  | Seamless, Disposable Gloves, Of Vulcanized Rubber Other Than Hard Rubber  | 4015.19.1010 | D | 4a |
| 20(rrr)(5)  | Bed Sheets And Similar Household Or Hospital Articles Of Paper Pulp, Paper, Cellulose Wadding Or Webs Of Cellulose Fibers, Others (4818.90.0000 prior to July 1, 2020; 4818.90.0020 or 4818.90.0080 effective July 1, 2020) | 4818.90.0000 | D | 4a |
| 20(rrr)(5)  | Bed Sheets And Similar Household Or Hospital Articles Of Paper Pulp, Paper, Cellulose Wadding Or Webs Of Cellulose Fibers, Others (4818.90.0000 prior to July 1, 2020; 4818.90.0020 or 4818.90.0080 effective July 1, 2020) | 4818.90.0020 | D | 4a |
| 20(rrr)(5)  | Bed Sheets And Similar Household Or Hospital Articles Of Paper Pulp, Paper, Cellulose Wadding Or Webs Of Cellulose Fibers, Others (4818.90.0000 prior to July 1, 2020; 4818.90.0020 or 4818.90.0080 effective July 1, 2020) | 4818.90.0080 | D | 4a |
| 20(rrr)(10) | Garments, Made Up Of Fabrics Of Heading 5602 Or 5603: Nonwoven Disposable Apparel Designed For Use In Hospitals, Clinics, Laboratories And Other Areas  | 6210.10.5090 | D | 4a |
| 20(rrr)(14) | Face shields of transparent plastics, whether or not assembled (described in statistical reporting number 3926.90.9950)   | 3926.90.9950 | D | 4a |

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|-------------|---|--------------|---|----|
| 20(rrr)(16) | Coverings, of plastics, designed to fit over wound sites or casts thereby forming a protective seal for keeping the covered area dry and debris free while showering or bathing (described in statistical reporting number 3926.90.9990 prior to July 1, 2020; described in statistical reporting number 3926.90.9985 effective July 1, 2020) | 3926.90.9985 | D | 4a |
| 20(rrr)(20) |   | 6116.10.6500 | D | 4a |
| 20(rrr)(23) | Face masks and particulate facepiece respirators, of textile fabrics (described in statistical reporting number 6307.90.9889 prior to July 1, 2020; described in statistical reporting number 6307.90.9845, 6307.90.9850, 6307.90.9870, or 6307.90.9875 effective July 1, 2020)   | 6307.90.9875 | D | 4a |
| 20(rrr)(23) | Face masks and particulate facepiece respirators, of textile fabrics (described in statistical reporting number 6307.90.9889 prior to July 1, 2020; described in statistical reporting number 6307.90.9845, 6307.90.9850, 6307.90.9870, or 6307.90.9875 effective July 1, 2020)   | 6307.90.9845 | D | 4a |
| 20(rrr)(23) | Face masks and particulate facepiece respirators, of textile fabrics (described in statistical reporting number 6307.90.9889 prior to July 1, 2020; described in statistical reporting number 6307.90.9845, 6307.90.9850, 6307.90.9870, or 6307.90.9875 effective July 1, 2020)   | 6307.90.9850 | D | 4a |
| 20(rrr)(23) | Face masks and particulate facepiece respirators, of textile fabrics (described in statistical reporting number 6307.90.9889 prior to July 1, 2020; described in statistical reporting number 6307.90.9845, 6307.90.9850, 6307.90.9870, or 6307.90.9875 effective July 1, 2020)   | 6307.90.9870 | D | 4a |
| 20(rrr)(23) | Face masks and particulate facepiece respirators, of textile fabrics (described in statistical reporting number 6307.90.9889 prior to July 1, 2020; described in statistical reporting number 6307.90.9845,   | 6307.90.9889 | D | 4a |

|             |   |              |   |    |
|-------------|---|--------------|---|----|
|             | 6307.90.9850, 6307.90.9870, or 6307.90.9875 effective July 1, 2020)   |              |   |    |
| 20(rrr)(27) | Single-use medical masks of textile material (described in statistical reporting number 6307.90.9889 prior to July 1, 2020; described in statistical reporting number 6307.90.9845, 6307.90.9850, 6307.90.9870, or 6307.90.9875 effective July 1, 2020) | 6307.90.9845 | D | 4a |
| 20(rrr)(27) | Single-use medical masks of textile material (described in statistical reporting number 6307.90.9889 prior to July 1, 2020; described in statistical reporting number 6307.90.9845, 6307.90.9850, or 6307.90.9870 effective July 1, 2020)               | 6307.90.9889 | D | 4a |
| 20(rrr)(27) | Single-use medical masks of textile material (described in statistical reporting number 6307.90.9889 prior to July 1, 2020; described in statistical reporting number 6307.90.9845, 6307.90.9850, or 6307.90.9870 effective July 1, 2020)               | 6307.90.9870 | D | 4a |
| 20(rrr)(30) | Protective articles (described in statistical reporting number 9004.90.0000)  | 9004.90.0000 | D | 4a |
| 20(rrr)(30) | Protective articles (described in statistical reporting number 9004.90.0000)  | 9004.90.0090 | D | 4a |