



HOUSE COMMITTEE ON WAYS & MEANS

CHAIRMAN RICHARD E. NEAL

Short- and Long-Term Changes Necessary to Address U.S. Medical Supply Chain Deficiencies

The Ways and Means Committee's Response to the USITC's Report on COVID-19 Relevant Medical Products

The United States faces a public health crisis that has fully exposed the insecurity of our medical supply chains and the dangers of our eroded manufacturing base. This emergency is a wake-up call. We must conduct a serious and thorough re-examination of our existing economic, industrial, and trade policies. To prevent the dangerous supply shortfalls that we are experiencing now from happening again in the future, we need to improve the resilience of our critical supply chains and re-establish our industrial manufacturing base.

Currently, we are immersed in the devastating fallout of the COVID-19 pandemic. Exacerbating the health crisis has been a shortage in supplies, equipment – especially personal protective equipment (PPE), and medicines. Resolving this immediate shortage requires both increasing production – which many U.S. companies are now stepping up to do – and removing impediments to the importation of needed goods. Emergency situations require emergency measures, especially when lives are at stake.

To better understand the extent of our medical supply chains' shortcomings, on April 6, Senate Finance Committee Chairman Chuck Grassley and I asked the U.S. International Trade Commission (USITC) to identify goods that are relevant to responding to the COVID-19 crisis and provide us with a report on those findings by April 30. In our joint request to the independent agency, Chairman Grassley and I also asked the USITC to identify the tariff lines, duty rates, and import levels and sources associated with those goods.

Today, the USITC released its work to the public. I would like to thank the agency for providing this information in an unbiased, professional, and expeditious fashion.

The USITC's findings help us construct a basic understanding of whether and where duties are currently applied to imports of medical supplies and products. Our experiences facing these critical shortages underscore the need for us to conduct further fact-finding and deliberation to prevent this problem from recurring in future emergencies. At this juncture, I believe it is imperative our nation be prepared for a strategic restructuring of our medical supply chains. Failure to do so will damage our country's long-term economic strength and cost us American lives.

In the near-term, the Administration must take serious and aggressive action to respond to the current health emergency and alleviate the supply shortages experienced across our country. The U.S. Trade Representative (USTR) created a process on March 20, 2020 for provisionally suspending Section 301 tariffs on imports of COVID-19-related products from China. However, USTR's process takes time, which is precious in this moment. As today's USITC report shows, the new USTR process also fails to account for the fact that COVID-19 relevant products subject to duties come from many countries other than China, and imports from China are subject to duties other than those imposed under Section 301.

I call on the Administration to exercise its existing authorities, including emergency authorities, to suspend all tariffs for the next 90 days on the products identified by the USITC as relevant to responding to the COVID-19 public health crisis. These suspensions must be subject to a straightforward and easily administrable process for affected stakeholders to object. The Administration will need to couple this suspension with a robust program under the Defense Production Act and using other tools to simultaneously enable and incentivize domestic production of these goods, especially PPE.

Our most immediate duty is to overcome the current COVID-19 public health crisis and save lives. Next, we must re-examine our existing policies and have the courage to enact the necessary transformative changes to make our supply chains smarter, our manufacturing capabilities stronger, and our country and citizens better prepared for future emergencies. My colleagues and I will be seeking further assistance from the USITC, stakeholders throughout the U.S. economy, and other leading experts as we advance this important work.

BACKGROUND

The USITC Report: Summary

PRODUCTS: The USITC identified eight categories of COVID-19-related products:

- **COVID-19 test kits/testing instruments:** the chemical reagents and instruments used in diagnostic testing for COVID-19.
- **Personal protective equipment (PPE):** protective materials that are worn. These goods are a subset of medical consumables and hospital supplies.
- **Disinfectants and sterilization products:** various chemically based sanitizing agents.
- **Oxygen therapy equipment and pulse oximeters:** devices that provide respiratory support to distressed patients.
- **Medical imaging, diagnostic, and other equipment:** devices that can facilitate the diagnosis of various medical conditions and/or assist in the administration of treatment.
- **Non-PPE medical consumables and hospital supplies:** a broad spectrum of basic medical supplies including syringes, needles, catheters, and adhesives that are used in healthcare facilities. Unlike PPE, these types of consumables are not worn.
- **Medicines (pharmaceuticals):** medications used to diagnose, cure, treat, or prevent disease.
- **Other:** this includes products for patient transportation, mobile clinics, and furniture used in a healthcare setting.

These eight categories are comprised of 112 statistical reporting numbers at the 10-digit Harmonized Tariff System (HTS) level for 2020. The USITC based its identification of these 112 HTS numbers on product lists developed by the World Customs Organization in consultation with the World Health Organization, the World Trade Organization, and other expert sources. These HTS numbers also include products that are not relevant to COVID-19.

APPLICABLE DUTIES: The applicable duties on the products the USITC identified include general or MFN duties; special duties, such as those applied under trade preference programs; and additional duties, which principally refers to tariffs imposed on products imported from China under Section 301 of the Trade Act of 1974, duties under Section 232 of the Trade Expansion Act of 1964 are not applicable to the listed products. The USITC did not identify antidumping or countervailing duties that may be applied to the importation of the products but noted that there are some. Some products may be available on a duty-free basis from certain countries under Free Trade Agreements or Preference programs.

- **Duty-Free Trade:** 47 of the 112 HTS numbers identified by the USITC are imported without MFN or additional duties
- **Section 301 Duties on Imports from China:** additional tariffs of 25 percent or 7.5 percent apply to certain of the COVID-19 related products.
 - Fifty-five of the 112 HTS numbers identified by the USITC are subject to Section 301 tariffs. Almost half of these HTS numbers, covering products

such as medical oxygen, disinfectants, protective gear and diagnostic testing instruments, have not been excluded from the Section 301 tariffs.

- For HTS numbers that include exclusions from the Section 301 tariffs in whole or in part, those exclusions are currently set to expire during the period from July to October 2020.
- MFN Duties on Imports from All Countries: about one third of the HTS numbers (36 of the 112) identified by the USITC are subject to duties, with *ad valorem* MFN duties ranging from approximately 2.5 to 16 percent.
 - These products include alcohol solutions, medical oxygen, swabs, hand sanitizers, rubber gloves, protective garments, and electronic drop counters for IV fluids, among other critical medical equipment.
 - Note that some HTS numbers subject to MFN duties also are subject to Section 301 tariffs when imported from China. For example, for some PPE and disinfectant products, the cumulative tariffs are 30 percent or more.

IMPORT VALUES: The total value of imports in 2019 for the 112 HTS numbers identified by the USITC was \$105.3 billion. This total includes some imports not related to COVID-19 as the HTS numbers encompass other products as well. While the majority of these goods enter the U.S. duty-free, a substantial amount is subject to MFN and/or additional duties.

The USITC's public report is available here:

<https://www.usitc.gov/publications/332/pub5047.xlsx>.