

March 6, 2023

Ambassador Katherine Tai
U.S. Trade Representative
600 17th Street NW
Washington, DC 20508

Re: Request for Comments on COVID-Related Product Exclusions for Sec. 301 Action on China. [Docket ID: USTR-2023-0001]

Dear Ambassador Tai:

Please find below the submission for the Coalition for a Prosperous America (CPA) opposing continuation of any of the COVID-related exclusions covering 81 medical-care products.

CPA members are part of a broad national coalition of domestic agricultural and manufacturing producers. Our coalition is overwhelmingly supportive of our Section 301 tariffs against merchandise from China. Many CPA members, whether individual producers or industry-specific associations, fear publicly expressing their support due to likely retaliation from China or multinational customers that source from China. They count on CPA to be their voice.

The Public Health Emergency for COVID-19 will have already expired

The Department of Health and Human Services (HHS) is planning for the federal Public Health Emergency for COVID-19, declared under Section 319 of the Public Health Service (PHS) Act, to expire at the end of the day on May 11, 2023.¹ The current COVID-related product exclusions expire on May 15, 2023.

The end of the Public Health Emergency should disqualify any consideration of the continuation of COVID-related product exclusions from the Section 301 action.

Continuation of the COVID-related product exclusions weakens supply chain resiliency and rewards the Government of China despite their ongoing violations of trade obligations and breach of the Phase One deal

The Section 301 tariffs have proved critical in mitigating harm from China's practices related to technology transfer, intellectual property and innovation. Namely, they helped slow China's capturing of U.S. domestic market share. They also boosted U.S. supply chain resiliency, by encouraging sourcing decisions outside of China prior to the Covid pandemic lockdowns.

¹ HHS Fact Sheet: COVID-19 Public Health Emergency Transition Roadmap (February 9, 2023), *available at* <https://www.hhs.gov/about/news/2023/02/09/fact-sheet-covid-19-public-health-emergency-transition-roadmap.html>

Throughout China's 'Zero Covid' lockdowns, the U.S. economy was more resilient thanks to the Section 301 actions taken in 2018, which drove sourcing out of China.

Continuation of the COVID-related product exclusions undermines policy goals set by Congress and the Biden Administration

On November 15, 2021, the Infrastructure Investment and Jobs Act (Pub. L. 117-58) was signed into law. Subtitle C of title IX of Division G of this law, the Make PPE in America Act, was passed to promote the expansion of personal protective equipment manufacturing in the United States.

The law defines "personal protective equipment" (PPE) as surgical masks, respirator masks and powered air purifying respirators and required filters, face shields and protective eyewear, gloves, disposable and reusable surgical and isolation gowns, head and foot coverings, and other gear or clothing used to protect an individual from the transmission of disease. This covers many of the Covid-related product exclusions.

Regrettably, imports from China continue to dominate the U.S. market for PPE. *See* Karl Evers-Hillstrom, "American PPE manufacturers form lobbying group to boost US production", THE HILL (Feb. 9, 2023), *available at* <https://thehill.com/lobbying/3850447-american-ppe-manufacturers-form-lobbying-group-to-boost-us-production/>

This is due in large part to the ongoing waivers of Section 301 tariffs for Covid related products. As the above article makes clear, hospitals feel compelled to purchase the absolute cheapest PPE available, regardless of supply chain resiliency issues. It is incumbent on the U.S. Trade Representative to end these Section 301 waivers that undermine U.S. policy.

Thank you for your consideration,

Charles Benoit,
CPA Trade Counsel