

United States Senate
WASHINGTON, DC 20510

June 23, 2022

The Honorable Gina M. Raimondo
Secretary
Department of Commerce
Herbert Clark Hoover Building
1401 Constitution Avenue, NW
Washington, DC 20230

Dear Secretary Raimondo:

I write to you today to request that the Department of Commerce self-initiate an antidumping duty (AD) and countervailing duty (CVD) inquiry into respirator masks, meltblown raw material, and other single use medical equipment imported from the People's Republic of China.

Single use medical equipment manufacturers throughout the country have alleged in media reports that Chinese-made products, including masks, such as including N95 respirators, and single-use instruments for joint replacement are being sold into the U.S. market for less than the cost of production.¹ In addition to this alleged dumping, we know from previous CVD cases that Chinese exporters often receive subsidies from national and provincial governments, allowing these producers to lower their costs and their prices to levels at which American companies cannot compete.

This unfair competition is putting significant financial pressure on American manufacturers, driving many out of business, and threatening, for example, our ability to scale up the production of high-quality masks, such as N95 respirators, in the event of a new variant. The pressure from imported Chinese masks is so detrimental to domestic mask manufacturers that they are unlikely to have the resources to spend the significant time and money needed to submit a petition to the Commerce Department for an investigation into Chinese mask and meltblown imports.

We also represent constituent companies who have decided to maintain a U.S.-based supply chain. Aside from the benefits domestic production brings to local economies in our states, localized production helps ensure that the resulting products meet the highest standards of quality, sterilization, and consumer safety.


¹ <https://www.nytimes.com/2021/05/29/health/us-china-mask-production.html>;
<https://www.nytimes.com/2022/03/05/business/dealbook/american-mask-makers.html>;
<https://www.nytimes.com/2022/03/07/business/why-american-mask-makers-are-going-out-of-business.html>


Given this financial pressure, and the information available to the Commerce Department on imports from China, I believe the circumstances warrant a self-initiated AD/CVD investigation. The AD and CVD laws provide a transparent, quasi-judicial, and internationally accepted mechanism to address the market-distorting effects caused by injurious dumping and unfair subsidization of imports into the United States. For the purpose of AD investigations, dumping occurs when a foreign company sells a product in the United States at less than its fair value. For the purpose of CVD investigations, a countervailable subsidy is financial assistance from a foreign government that benefits the production of goods from foreign companies and is limited to specific enterprises or industries, or is contingent either upon export performance or upon the use of domestic goods over imported goods. Under sections 702(a) and 732(a) of the Tariff Act of 1930, which specify that AD and/or CVD investigations “shall be initiated whenever the [Department of Commerce] determines, from information available to it, that a formal investigation is warranted into the question of whether the elements necessary for the imposition of a duty . . . exist.” While self-initiated investigations are rare, in just the last month the Commerce Department self-initiated a scope and circumvention inquiry into quartz-surface products from China.²

Americans must to be able to count on domestic manufacturers to deliver the medical equipment they need on a timely basis. Sustaining a level of wholly domestic production of N95 respirators, meltblown raw materials, critical medical instruments, and the expertise and equipment required to make them, is integral to maintaining that assurance. This policy goal—ensuring that quality PPE and medical equipment is available to the country when needed by maintaining production levels of wholly domestically made materials—is emphasized in the National Strategy for a Resilient Public Health Supply Chain, published in July 2021 as a deliverable of President Biden’s Executive Order 14001 on “A Sustainable Public Health Supply Chain.”

I believe the circumstances present in the domestic medical supply manufacturing market suggest that a self-initiation would be appropriate. Given the public health and national security implications of a broad and diverse manufacturing base, I urge you to work with the domestic N95 respirator and meltblown raw material manufacturers, as well as the domestic producers of single-use instruments for joint replacement to investigate the allegations.

Sincerely,


Tammy Baldwin
U.S. Senator


Mike Braun
U.S. Senator

² <https://www.trade.gov/press-release/department-commerce-self-initiates-scope-and-circumvention-inquiries-possible>