

## COVID-19: The International Trade Commission Institutes Three-Phase Plan To Re-Open; In-Person Hearings For Section 337 Investigations Postponed

June 23, 2020

### Key points

- On June 22, 2020, the ITC issued a notice extending its COVID-19 Action Plan.
- The ITC entered Phase One of its three-phase plan to reopen to the public.
- The ITC ordered the ITC's Administrative Law Judges to postpone all in-person hearings for Section 337 investigations until the ITC enters Phase Three or until further notice.
- Under the Gating Criteria for the three-phase plan, there is no set timeline for entering into any specific phase.
- In the meantime, the ITC remains open for business and is closely monitoring the COVID-19 outbreak.

With the District of Columbia, Virginia and Maryland issuing plans for a phased reopening of the region, as well as guidance adapted for federal agencies, the United States International Trade Commission (ITC) developed a three-phase plan to re-establish on-site business operations at the ITC building in Washington, D.C. ([here](#)). The Chairman of the ITC has begun the implementation of the three-phase plan, utilizing the identified gating criteria and other factors to determine the ITC's progression through the phases. Currently, the ITC entered Phase One of the three-phase plan.

At this time, the ITC has ordered the Administrative Law Judges to postpone any in-person hearings for Section 337 investigations until further notice or until the ITC enters Phase Three. Under the ITC's COVID-19 Action Plan, the ITC building remains closed to the public during Phase One and Phase Two, and will not reopen until further notice or the entry of Phase Three. In addition, ITC employees will continue teleworking and the ITC Secretary's Office will continue to accept only electronic filings, as no in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

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The ITC's Gating Criteria for each phase of the three-phase plan establish that there is no set timeline for entering into any specific phase. In addition, the Gating Criteria note that the Chairman of the ITC will assess when to begin the progression through each phase to re-establish on-site business operations based upon guidance from other relevant agencies. Currently, that guidance recommends a 14-day downward trajectory of benchmark metrics in COVID-19 cases in the region, among many other factors, before each phase can begin. The Chairman of the ITC will review state and regional orders and recommendations, as well as other factors such as mass-transit availability, school and daycare/camp closures, parking availability, facility requirements and mission requirements prior to determining the phase status.

With respect to Phase One and Phase Two, the ITC will progress through these phases when the Chairman of the ITC determines that the Gating Criteria are met and the ITC's operational needs warrant progression. During these two phases, the ITC COVID-19 Action Plan will remain in effect; the ITC building will remain closed to the public; the suspension of in-person ITC activities will remain in effect, and alternative procedures for remote proceedings, conferences and seminars will govern; and the temporary modification of certain ITC Rules of Practice and Procedure will remain in effect.

Upon entering Phase Three, normal on-site business operations will resume at the ITC building, which will re-open to the public, and all in-person activities at the ITC building may resume at this time, with all suspensions lifted. Prior to entering Phase Three, the ITC may indicate that certain procedures and protocols instituted during Phase One and Phase Two may be modified or remain in effect during Phase Three. Notably, the ITC will institute New Building Visitor Access Procedures in Phase Three, which will include:

- Visitors to the ITC building must check in at the guard's station on the ground floor, regardless of access point, before proceeding elsewhere within the building.
- The guards will screen all visitors consistent with normal procedures, including requiring that they enter their name and telephone number in the visitor logbook.
- Visitors will be required to self-certify they are not displaying COVID-19 symptoms and have not knowingly been in recent contact with someone who has, or is suspected to have, COVID-19.

In addition, large posters with a health questionnaire will be displayed in the lobby entrance near the elevator bank and the stairwell entrance(s). The ITC will treat each person who proceeds past the guard's station on the ground floor as having self-certified that the answer to each of the questions is no, and anyone who cannot negatively respond to each question should leave the building.

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