



The Bottom Line

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IMPORT SECURITY AND FAIRNESS ACT PROPOSED TO LIMIT DE MINIMIS THRESHOLD

Summary

U.S. Representative Earl Blumenauer (D-OR), chairman of the House Ways and Means Trade Subcommittee, unveiled new legislation to stop non-market economies and goods from exploiting the de minimis threshold that allows imports under \$800 to come into the United States without paying duties, taxes, or fees.

Background

The de minimis rule, according to U.S. Customs regulation (19 CFR § 10.151), allows for the duty- and tax-free entry of shipments valued at less than \$800. Under this provision, Customs requires no formal entry. Instead, shipments are cleared when carriers present their manifest to CBP.

The exponential growth of eCommerce has put pressure on Customs in the last ten years. Signed February 24, 2016, the Trade Facilitation and Trade Enforcement Act (TFTEA) of 2015 facilitated an increase in the de minimis value from \$200 to \$800. The increase was considered to be business (eCommerce) friendly. The change was designed to free up CBP personnel from scrutinizing thousands of low-value, low-risk shipments each day so they could concentrate on inspecting high-risk shipments.

Current Status

The change in the de minimis threshold has shattered traditional business relationships—and eliminated much of the longstanding vetting of products imported into the country each day. Amazon's mass import of small packages means that goods are shipped directly to U.S. consumers from obscure overseas vendors. That makes regulatory oversight impossible and bypasses the current 25% tariff on Chinese goods. As long as a foreign vendor claims its merchandise is valued at less than \$800, its goods face no U.S. taxes or tariffs at all.

The Import Security and Fairness Act would deny de minimis benefits for:

- **Merchandise from Countries that are both Non-Market Economies and on the U.S. Trade Representative's (USTR) Priority Watch List:** the legislation denies eligibility for de minimis treatment if the USTR has determined that the supplying nation denies adequate protection of intellectual property and is a non-market economy. Shipments from countries on both lists represent a disproportionate share of counterfeits and other dangerous goods. Furthermore, the country's non-market economy status means that the accurate valuation of shipments is questionable.

- **Goods Subject to Enforcement Actions:** U.S. enforcement statutes, such as Section 301 and 232, provide the United States with leverage to address unfair trade practices that harm U.S. workers and firms. Exempting de minimis shipments from paying enforcement-related duties has significantly undercut this leverage, even though de minimis shipments subject to other enforcement actions, like antidumping and countervailing duty orders, are still required to pay the duties.
- **Offshore Distribution or Processing Facilities:** Goods shipped in bulk to Canada or Mexico distribution warehouses then shipped to United States consumers in small parcels circumvent the applicable duties and shift business away from US-based distribution warehouses.

In addition, the legislation would require Customs and Border Protection (CBP) to collect more information on all de minimis importers and prohibit its use by those suspended or debarred.

Impact

The legislation has support from multiple industry groups.

"It's long overdue that Congress address the rampant abuse of the de minimis loophole by China and companies like Amazon," said Coalition for a Prosperous America CEO Michael Stumo. "Originally meant for low-value goods, multinational corporations addicted to profiting off of cheap Chinese imports successfully lobbied to increase the de minimis limit to \$800 in 2016. As a result, multinational importers of Chinese goods have exploited de minimis to create a direct-to-consumer business model that has seen an explosion of more than 2 million packages per day. By prohibiting goods from non-market economies like China from using de minimis, Congressman Blumenauer's legislation is exactly the kind of solution needed to reverse decades of harm to American workers and businesses from flawed U.S. trade law."

RESOURCES

[De Minimis Value Increases to \\$800](#) (U.S. Customs and Border Protection)

[Why is U.S. Customs Law Helping Amazon and China, and Not U.S. Manufacturers and Retailers?](#) (MarketWatch)

[Chairman Blumenauer Unveils New Legislation to Fix Import Loophole, Level Playing Field, and Boost Oversight](#) (U.S. House of Representatives)

[Proposed Bill 'Would Shut Down Shein,' Expert Says](#) (Sourcing Journal)