

MAJOR UNINTENDED CONSEQUENCES OF PROPOSALS TO ALTER DE MINIMIS

Background:

Congress is considering legislative proposals to adjust the treatment of low-value shipments entering the United States. Leading proposals would make any product subject to trade remedies, including Section 301, 201, 232 tariffs and anti-dumping and countervailing duties (AD/CVD), ineligible for de minimis entry.

As written, the legislation would **require significant additional resources for U.S. Customs and Border Protection (CBP), slow the flow of goods through already-congested ports, create more enforcement challenges instead of solving them, and result in a tax hike on the American families who are struggling most with inflation.**

Unintended Consequence #1 - A Massive Cost to the Federal Government

- **Net revenue loss:** While revenue would be collected from products subject to Section 301 tariffs and other trade remedies under this legislation, **the cost to collect these duties by CBP would be significantly higher than the tariff revenue that would be collected.**
- **Massive staffing increase:** In order to assess if a shipment is eligible for de minimis, CBP would need to separately determine whether the shipment contained products that are subject to Section 301, 232, 201, or AD/CVD tariffs. While CBP currently has the resources to make those determinations on high-value formal entries, making such determinations on a significant portion of over one billion low-value shipments would be impossible with CBP's current staffing levels. CBP's most recent workload staffing model already shows a gap of over 4,800 CBP Officers between what the agency has determined is necessary and what Congress has appropriated funds for.
- **Diverting Enforcement and Border Resources:** Every minute CBP spends focusing on classifying low-value shipments to collect minimal duty is a minute that they are not inspecting packages that may pose a high risk. **Focusing on tariff collection will also create a backlog in package processing, aggravating our highest volume air and sea ports and divert border resources.**



A Congressional Appropriation for Tens of Thousands of New Federal Employees:

It is estimated that CBP would need to hire tens of thousands of additional agents, import specialists, inspectors, and lawyers to carry out this approach. Any additional revenue that is collected from duties cannot be directed toward CBP, as tariff revenue collected is directed to the Treasury General Fund. Any additional CBP staffing would require a separate appropriation from Congress.

Unintended Consequence #2 - A Supply Chain Slowdown

- **Supply chain impacts:** Determining if a product is eligible for de minimis under this system is complex, and businesses without customs experts on staff will likely make mistakes. When a product enters under de minimis but is found ineligible by CBP, the import will need to be converted to an informal or formal entry. This would require businesses to identify a person as an importer, hire a customs broker, and pay the duty before the shipment could be released. If a business does not follow through with these tasks, shipments would be left unclaimed or abandoned and CBP would have to dispose of the product, which is costly.

Unintended Consequence #3 - Trade Will Shift to Less Transparent Postal Environment

The proposals to alter de minimis will reduce the safety of Americans by shifting a large amount of shipments into the postal environment that is less transparent, has historically been used to traffic fentanyl, is harder for CBP to monitor, and requires more manual resources for effective enforcement. The result will create a pathway that is more advantageous for bad actors and increases the opportunity for fentanyl and other dangerous illicit products to evade detection.

- **Lack of Targeting in Postal:** According to a recent [Inspector General Report](#), CBP did not consistently target for additional inspection or evaluate potentially illicit international mail entering the U.S. through its nine International Mail Facilities.
- **Unworkable process:** To the extent that CBP is able to identify shipments in the postal environment that are ineligible for de minimis treatment, those shipments will have to be converted to dutiable mail by CBP officers and the U.S. Postal Service. In practice that means that both agencies will have to manually process the entries, identify the consignee (recipient), and then collect the duties. CBP may have to request that consumers come to the port of entry, for example, the JFK International Mail Facility, to pay the required duties and pick up their package.

Unintended Consequence #4 - A Major Cost Increase for Americans Who Can Afford it Least

- **Yale/UCLA Study:** Yale Economics Professor Amit Khandelwal and UCLA Economic Professor Pablo Fajgelbaum recently released [a study](#) detailing how degrading de minimis would reduce aggregate welfare by up to \$14 billion, result in **a regressive tax that would target the poorest zip codes** in America, and disproportionately increase taxes on minority households. The most impacted population by this tax hike are the [same Americans](#) struggling most with inflation.

A Better Way Forward

Long-term, effective solutions: A more prudent and sustainable process for Congress to consider would be improving CBP's enforcement efforts across all entry types and better targeting bad actors from non-market economies.

Congress should consider a more tailored approach and debate comprehensive, customs modernization legislation to improve enforcement efforts across all types of entry. Here is what's needed:

- **Comprehensive customs modernization legislation:** CBP requires new screening technology and higher quality data. Needed technologies include non-intrusive imaging, AI, and machine learning, which can identify non-compliance automatically and handle high throughput. This will reduce officer burden while simultaneously increasing safety and facilitating trade.
- **Expand 321 pilot program:** The 321-pilot program is an ongoing effort to test new data elements that are helpful for enforcement. Comprehensive customs modernization legislation should move CBP in the direction of better technology and higher quality data, which will provide better enforcement outcomes across entry types and shipping environments.