

October 24, 2019

Mark Morgan
Acting Commissioner
U.S. Customs and Border Protection
1300 Pennsylvania Ave. NW
Washington, DC 20229

Dear Acting Commissioner Morgan:

I am writing on behalf of the National Council of Textile Organizations (NCTO) to request U.S. Customs and Border Protection's (CBP) immediate attention to examining the trade, economic, and health and safety impacts related to imports under Section 321 de minimis waivers.

CBP recently stated in a September 13 Federal Register notice that it receives 1.8 million de minimis shipments a day but "faces significant challenges in targeting Section 321 shipments," while also trying to balance expedited clearances for the private sector.

Given the substantial and growing level of trade under the current de minimis structure, we believe it's important to have a publicly available analysis on this issue to understand the underlying impacts on U.S. manufacturing, our free trade agreement partners, and the health and safety implications of these imports.

CBP further noted the agency does not "receive adequate advance information in order to effectively and efficiently assess the security risk" of those shipments each day. We share these fundamental concerns on what is a staggering amount of duty-free trade, about which we have virtually no information.

Textile and apparel products are uniquely positioned to enter as de minimis shipments as apparel and other sewn products routinely sell for under \$800 and represent over 40 percent of CBP's duty collections. Further, China is almost certainly the single largest beneficiary of this loophole. As the number one exporter of apparel and textiles to the U.S., China accounted for over 35 percent of the U.S. import market last year.

Our concerns are exacerbated by the belief that the domestic textile industry and other U.S. manufacturing interests are directly and negatively impacted, particularly if e-commerce sites like Amazon and others are using de minimis as a duty-free portal into the U.S. for textile and apparel products.

It is highly likely that such Section 321 imports are displacing finished textile and apparel imports from numerous free trade and preference partner countries that are key export destinations for U.S.-made fiber, yarn, and fabrics.

In addition to the economic implications, there are legitimate worries that Section 321 is being used as a conduit to import adulterated products posing a health risk to consumers, as well as a vehicle for duty circumvention that provides easy access for products that are undervalued, misclassified, and/or transshipped.

Counterfeit seizures by U.S. authorities hit \$1.4 billion in fiscal 2018, according to a newly released report co-authored by CBP. Over 90 percent of all intellectual property seizures occur in the international mail and express environments, according to the report, and that is a common method of shipping by e-commerce sites.

Another significant concern is that the administration's 301 retaliatory tariffs on Chinese imports are not being applied to de minimis shipments, which further compounds the problem and undermines the administration's efforts to crack down on unfair Chinese trade practices. This has created a substantial loophole to the 301-tariff mechanism. We urge the administration to start immediately applying these duties to de minimis shipments.

While we are pleased that CBP, as an initial first step, announced a voluntary data collection program on de minimis shipments in June, we believe this analysis needs to go much further. As a result, NCTO as the voice of the full spectrum of U.S. textiles from fiber through finished sewn products, reiterates its longstanding request of CBP and the administration to provide a detailed and public analysis on de minimis shipments to include:

1. A listing of products that CBP believes are most impacted and/or believes are most vulnerable to 321 tariff waivers.
2. A listing of countries that are the biggest beneficiaries of 321 tariff waivers.
3. Data as to how much de minimis shipments have grown over the past 5 to 10 years.
4. Projections on the trajectory of e-commerce 321 waiver applications over the next 5 to 10 years.
5. Data as to how much Chinese product is being imported under de minimis that is currently under 301 punitive tariffs.
6. Estimates as to how current de minimis shipments are affecting U.S. tariff collections.
7. Estimates of how de minimis shipments are impacting U.S. domestic manufacturing, and our free trade agreement and trade preference partners.
8. The examination procedures on de minimis shipments to determine health and safety of these products to U.S. consumers.
9. An analysis of statutes and regulatory rulings that form the basis for coupling 321 waivers to e-commerce transactions.

10. Recommended regulatory and/or statutory changes to create a more reasonable 321 structure, especially in relation to e-commerce.

We appreciate your consideration and attention to this critically important request. As an industry we stand ready to assist you in addressing the concerns outlined above.

Best regards,

A handwritten signature in blue ink that reads "Kimberly Glas". The signature is written in a cursive, flowing style.

Kimberly Glas
President & CEO
National Council of Textile Organizations

Cc: Members of Congress