

# PROSPERITAS

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## How the U.S.-China Economic and Security Review Commission Mangled De Minimis Analysis

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### Executive Summary

Government agencies and departments are required to send thousands of reports to Congress each year, many of which are a waste of time and money and are appropriately ignored.<sup>1</sup> But a recent report from the U.S.-China Economic and Security Review Commission (USCC) is an exception. Nearly 800 pages long, it highlights several reasons why American policy makers should be concerned about the actions of China's government.<sup>2</sup>

Unfortunately, the serious analysis of issues such as foreign policy and China's economic slowdown is undermined by sections that promote protectionism. In particular, Chapter 4 of the report urges policy makers to impose import taxes on "de minimis" shipments valued at under \$800. That would severely restrict American consumers from making online purchases from foreign companies, including Chinese firms.

Such an approach would be absurd. The USCC has a mandate to "monitor, investigate, and report to Congress on the national security implications of the bilateral trade and economic relationship between the United States and the People's Republic of China." Yet buying a \$50 outfit or \$30 toy from a Chinese producer does not affect, much less undermine, America's national security.

The only real-world impact of limiting online purchases is that consumers would have fewer options and pay higher prices. This would be particularly harmful to middle-class and lower-income households, both of which devote a higher percentage of their income to consumption.

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<sup>1</sup> See "A Primer on Congressionally Mandated Reports and How to Find Them," Library of Congress, April 26, 2024, <https://blogs.loc.gov/law/2024/04/a-primer-on-congressionally-mandated-reports-and-how-to-find-them/>.

<sup>2</sup> "2024 Report to Congress of the U.S-China Economic and Security Review Commission," November 2024, [https://www.uscc.gov/sites/default/files/2024-11/2024\\_Annual\\_Report\\_to\\_Congress.pdf](https://www.uscc.gov/sites/default/files/2024-11/2024_Annual_Report_to_Congress.pdf).

## The Commission's Recommendation

The USCC specifically wants American law changed so that the “de minimis” exemption (Section 321 of the Tariff Act of 1930) is eliminated. That provision of the law protects American consumers from having to pay import taxes on purchases of less than \$800. The Commission’s report makes several weak arguments in hopes of justifying this tax increase.

**Low-quality goods** – The report warns that “China-based sellers lack the diligence, capacity, and skill required to produce high-quality goods” and that this could be “undermining U.S. companies’ efforts to provide high-quality...goods to consumers.” This has nothing to do with national security, thus underscoring how the USCC report was misused to push for a protectionist agenda. But let’s nonetheless address the issue. It is consumers, not politicians, who should be making decisions on the tradeoff between price and quality. To cite an analogy, very few people would argue that a fast-food restaurant provides the same quality dining as a Michelin-starred restaurant, yet millions of consumers choose fast food because they value a low price more than high quality.

**Foregone tax revenue** – The report notes that “China Section 301 tariff actions are unprecedented in the recent history of U.S. trade policy” and that “cross-border e-commerce trade between the United States and China has surged as Chinese exporters take advantage of the de minimis.” Actually, it is America consumers who are taking advantage of de minimis shipments. That is something to applaud, not condemn. Higher taxes are bad for the U.S. economy, whether levied on income, trade, sales, or business. Moreover, the level of taxation has nothing to do with national security, except in the indirect sense that larger fiscal burdens weaken the economy and make the country less able to afford an appropriate defense budget.

**Regulatory competition** – One of President Trump’s main agenda items is boosting American competitiveness by reducing the regulatory burden.<sup>3</sup> So it is rather discordant that the USCC report complains that, “by refusing to follow...costly U.S. product safety regulations, ...Chinese firms receive an unfair competitive edge.” That is a de facto endorsement of regulatory harmonization, and it is contrary to good policy. Just as with tax harmonization, it would be a recipe for ever-increasing burdens on the private sector. The goal of American policy should be to reduce red tape so that U.S. firms have a “competitive edge.”

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<sup>3</sup> Tony Room, “Trump embarks on vast effort to revoke federal regulations,” The Washington Post, January 21, 2025, <https://www.washingtonpost.com/business/2025/01/21/trump-federal-regulations-biden-policies/>.

However, not every argument in the report is weak. In some cases, legitimate concerns are raised. More specifically, there are two additional arguments in the report that deserve a response. The problem is that eliminating de minimis protection is not the right approach.

**Chinese subsidies** – The Chinese government engages in widespread industrial policy, steering money and capital to favored industries (such as automobiles, technology, and manufacturing), with state-owned firms being major beneficiaries.<sup>4</sup> It is this policy, not lower levels of red tape, that creates “an unfair competitive edge.” But this is not very relevant to a discussion of de minimis treatment since the Chinese firms with the most online sales have little or no connection with the government.<sup>5</sup> Moreover, the Chinese government is making a mistake with the firms that do receive subsidies. There is a growing body of evidence that this form of government intervention is backfiring and weakening China’s economy.<sup>6</sup> That being said, there is a distortion in trade because of the subsidies. If American policy makers want to respond, this would be the type of conflict that the World Trade Organization was created to address.<sup>7</sup> And, unlike ending de minimis protections, the WTO might solve the problem.

**Counterfeit goods** – Another genuine problem is that some Chinese companies will create look-alike products that mimic well-known brands. As noted in the USCC report, “China is the number one source of counterfeit products in the world.” Selling such products is fraudulent and should be punished. Yet banning de minimis shipments is the trade equivalent of “throwing the baby out with the bathwater.” The government would be squashing hundreds of millions of transactions in hopes of blocking some counterfeit goods. Far better to negotiate with China to increase enforcement. And if that does not work, the WTO offers a better way of imposing penalties without increasing taxes on American households.

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<sup>4</sup> Lingling We, and Jason Douglas, “Why China Is Starting a New Trade War,” The Wall Street Journal, April 22, 2024, <https://www.wsj.com/world/china/china-trade-war-xi-manufacturing-49f81f68>.

<sup>5</sup> See Bailey Schulz, “What is Temu? What we know about the e-commerce company with multiple Super Bowl ads,” USA Today, February 12, 2024, <https://www.usatoday.com/story/money/2024/02/12/what-is-temu-super-bowl/72573203007/>, and, Jennifer Ortakales Dawkins and Grace Mayer, “Shein has filed to go public and is reportedly seeking up to \$90 billion valuation. Here’s how the fast-fashion brand chartered a meteoric rise.” Business Insider, December 18, 2023, <https://www.businessinsider.com/what-is-shein-billion-dollar-fast-fashion-company-explained-2023-7>.

<sup>6</sup> See Lee G. Branstetter, Guangwei Li, and Mengjia Ren, “Picking Winners? Government Subsidies and Firm Productivity in China,” NBER, Working Paper 30699, December 2022, <https://www.nber.org/papers/w30699>, and Shang-Jin Wei, Jianhuan Xu, Ge Yin, and Xiaobo Zhang, “Mild Government Failure,” NBER, Working Paper 31178, April 2023, <https://www.nber.org/papers/w31178>.

<sup>7</sup> See The Editorial Board, “Tackling China’s Protectionism,” The Wall Street Journal, March 20, 2018, <https://www.wsj.com/articles/tackling-chinas-protectionism-1521585170>, and The Editorial Board, “A New Front in Trump’s Trade War,” Bloomberg, March 11, 2018, <https://www.bloomberg.com/view/articles/2018-03-11/china-intellectual-property-and-trump-s-next-trade-war>.

This would also be the appropriate way of dealing with products that allegedly are unsafe, which is another issue addressed in the report.

## Analysis

Online, direct-to-consumer commerce provides significant benefits to American households for reasons such as price, convenience, and choice. Moreover, it is good for consumers to have a system that does not tax them merely because a seller is located in another nation. Trade taxes are bad for national prosperity and global prosperity, so policies that give consumers a way of escaping those levies are very desirable.

To the extent that there are real problems to address with China, getting rid of de minimis treatment is likely to be totally ineffective. Online sales account for less than 20 percent of Chinese exports according to the USCC report. So, if U.S. politicians want leverage in negotiations with China, they would be in a much stronger position to focus on regular imports, which are far more important.

They should be aware, however, that restricting regular imports also would have negative effects on American consumers and the national economy. The goal of trade negotiations should be to liberalize trade, not reduce it.

Eliminating de minimis protections would have very unfortunate effects on national prosperity, global commerce, and consumer welfare. A review of recent research underscores the adverse impact.

- It would cost consumers \$13 billion annually, with low-income households bearing a disproportionately high share of the burden.<sup>8</sup>
- Getting rid of de minimis treatment would require thousands of new bureaucrats that cost more than \$3 billion annually.<sup>9</sup>
- An academic study estimated that eliminating the de minimis treatment would lower aggregate well-being by as much as \$13.0 billion and disproportionately hurt lower-income and minority consumers.<sup>10</sup>

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<sup>8</sup> Amit Khandelwal and Pablo Fajgelbaum, “How much would eliminating the “de minimis” tariff exception cost the American consumer?” Yale, Tobin Center for Economic Policy, Perspectives, February 10, 2025, <https://tobin.yale.edu/news/250210/how-much-would-eliminating-de-minimis-tariff-exception-cost-american-consumer>.

<sup>9</sup> “Estimating the Cost to the US Government of Degrading the De Minimis Import Duty Exemption,” Oxford Economics, September 2024, <https://www.oxfordeconomics.com/wp-content/uploads/2024/09/Final-de-minimis-report-Oxford-Economics-2.pdf>.

<sup>10</sup> Pablo D. Fajgelbaum and Amit Khandelwal, “The Value of De Minimis Imports,” NBER, Working Paper 32607, February 2025, <https://www.nber.org/papers/w32607>.

- The price of shipped goods would rise by 40 percent-55 percent thanks to taxes, logistic costs, and other burdens.<sup>11</sup>

Sadly, proponents of higher trade taxes see these costs as something to celebrate. They want to make it more difficult for Americans to purchase goods and services from overseas.

## Conclusion

Online shopping is a big benefit for consumers, whether they are buying domestically produced goods or foreign-produced goods. Households save time and money, while also having greater options.

There are also big-picture economic benefits. Having more suppliers means more competition, and that encourages all companies to strive for maximum efficiency.

In the debate over de minimis protections, the words of former Harvard economist Joseph Schumpeter should be remembered: “The capitalist achievement does not typically consist in providing more silk stocking for queens but in bringing them within the reach of factory girls in return for a steadily decreasing amount of effort.”<sup>12</sup>

Helping ordinary households should be the main priority for politicians, not protecting domestic firms and not boosting tax revenue for politicians. De minimis protections should remain.

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<sup>11</sup> Oxford Economics (n 9).

<sup>12</sup> Joseph A. Schumpeter, *Capitalism, Socialism, and Democracy*, 1942.