

Biden Administration Finalizes Section 301 Tariff Increases on Some Chinese Goods, Announces Proposed Rules to Limit De minimis Exemption Imports

by Lawrence Ward, Justin T. Huff, Dave Townsend, and T. Augustine Lo

On Friday, September 13, 2024, the Office of the United States Trade Representative (“USTR”) announced its final modifications to the Section 301 tariffs on Chinese-origin goods. USTR will keep all of the proposed tariff increases, including higher tariffs on many categories of medical products. Most of these tariff increases are to take effect on September 27, 2024, but some increases will be deferred until January 1, 2025, or January 1, 2026. In addition, USTR finalized the list of manufacturing items for which U.S. importers can seek Section 301 exclusions.

Separately, but on the same day, the White House announced new proposed rules to limit the use of the “*de minimis*” exemption that currently allows personal baggage and small parcels to avoid payment of certain import duties for low-value goods. These changes would prevent use of the *de minimis* exemption for any imports subject to Section 201 (safeguards), Section 232 (national security), and Section 301 (unfair trade practice) import duties. In addition, the changes would include enhanced declaration requirements for parties using the *de minimis* exemption for imports. These proposed rules would impact mostly e-commerce platforms who sell and ship low-value items directly to U.S. consumers, bypassing U.S. tariffs that might otherwise be applicable if those same items were shipped in bulk into the United States.

Section 301 Tariff Modifications

As we reported [earlier](#), the USTR has been considering significant tariff increases for battery parts; electric vehicles (“EVs”); facemasks; lithium-ion batteries; medical gloves; natural graphite and other critical minerals; permanent magnets; semiconductors; ship-to-ship cranes; solar cells; steel and aluminum products; and syringes and needles originating from China. According to its [public announcement](#), USTR received over 1,100 public comments on these proposed tariff increases, including comments both in favor of and opposed to the increases. However, these comments did not result in any changes to the factual findings that USTR had reached and published to justify the proposed tariff increases. Rather, USTR will adopt all of the proposed tariff increases, including higher

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- Lawrence Ward
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tariffs on many categories of facemasks (both medical and nonmedical); medical gloves; and syringes and needles.

The following table shows these further increases.

Product Description	Previously Proposed Rate	Final Adjusted Rate	Effective Date(s)
N95 Respirators	25%	25% 50%	Sept. 27, 2024 Jan. 1, 2026
Other Textile Respirators	25%	25% 50%	Sept. 27, 2024 Jan. 1, 2026
Textile Face Masks (amended to include disposable masks)	25%	25% 50%	Sept. 27, 2024 Jan. 1, 2026
Medical Gloves	25%	50% 100%	Jan. 1, 2025 Jan. 1, 2026
Syringes and Needles	50%	100%	Sept. 27, 2024

As noted above, the other finalized tariff increases mostly take effect on September 27, 2024. The tariff increases for semiconductors will take effect on January 1, 2025. The tariff increases for non-EV batteries; natural graphite; and permanent magnets will take effect on January 1, 2026.

USTR also considered comments on proposed tariff exclusions that could provide relief from the existing Section 301 tariffs (currently either 7.5% or 25%):

- USTR decided to adopt 14 out of 19 proposed temporary exclusions for solar manufacturing equipment, which are retroactive to January 1, 2024, and through May 31, 2025. USTR decided against exclusions for solar manufacturing equipment for modules, citing sufficient availability outside of China.
- USTR is issuing a temporary exclusion for enteral syringes that will expire on January 1, 2026, and a limited exclusion for ship-to-shore cranes under contracts signed before May 14, 2024, and imported before May 14, 2026.
- USTR issued a finalized list of machinery equipment under HTSUS Chapters 84 and 85 that can become eligible for tariff exclusions through a further application process. This list adds the following HTSUS subheadings to the previously proposed list announced in May 2024.
 - 8421.21.00 (Machinery and apparatus for filtering or purifying water);
 - 8421.29.00 (Filtering or purifying machinery and apparatus for liquids, not elsewhere specified or included (“nesoi”));
 - 8421.39.01 (Filtering or purifying machinery and apparatus for gases, other than intake air filters or catalytic convertor for internal combustion engines);

- 8428.70.00 (Industrial robots); and
- 8443.19.30 (Printing machinery, nesoi).

USTR will issue further instructions for this next round, which will provide interested parties an opportunity to support or oppose exclusions from certain items listed in HTSUS Chapters 84 and 85.

***De minimis* Announcement**

Also on September 13, the White House issued a [Fact Sheet](#) announcing its intention to curtail the use of the “*de minimis*” exemption for low-value imports through the publication of two notices of proposed rulemaking (“NPRMs”). In general, low-value imports to one person, including personal baggage, gifts, and small parcels, can avoid the need for import duty assessment if the total value is below a certain U.S. dollar threshold per day. Congress first established this exemption in the Tariff Act of 1930 and reset the threshold at \$800 per day for parcels and other low-value shipments in the Trade Facilitation and Enforcement Act of 2015. That \$800 level was intended to reduce the administrative burdens for CBP and U.S. package delivery providers, but it has the effect of reducing tariff collections on low-value items sold via e-commerce.

The White House Fact Sheet noted that the volume of imports claiming the *de minimis* exemption had risen sharply over the past decade from 140 million to over one billion packages per year. Such a large increase in volume has sparked concerns about whether CBP can adequately enforce U.S. laws prohibiting imports of narcotics, goods that violate U.S. intellectual property rights, or goods made in whole or in part with the use of forced labor, among others. Moreover, citing allegations that the exemption allows imports from China in particular to avoid the hefty Section 201 (safeguards), Section 232 (national security), and Section 301 (unfair trade practice) import duties, the White House stated its intention to issue an NPRM to deny *de minimis* eligibility for all shipments containing products covered by those tariffs and that otherwise would be assessed on larger value shipments of the same goods. The White House notes that the change would ensure parity with an existing ineligibility for imports from China or other nations subject to antidumping and countervailing duties, which are trade remedy tariffs that the U.S. Government has imposed to address unfair trade practices.

At the same time, the White House is calling on Congress to take legislative action on the same issue, echoing pending proposals in Congress on this subject. Notably, the Fact Sheet does not specify the legal authority that the Biden Administration would invoke for the NPRM. However, some members of Congress have urged executive action to change the operation of the *de minimis* exemption.

The Fact Sheet also included the following:

- The Biden Administration intends to issue an NPRM that will require importers who claim the *de minimis* exemption to include more detailed information in their import declarations that will help determine eligibility for the claim;
- The Consumer Product Safety Commission (“CPSC”) will issue a proposed final rule requiring claimants of *de minimis* exemptions to file certifications of compliance with

CPSC regulations; and

- The Biden Administration is exploring new ways to support the U.S. textile and apparel industry through increased domestic procurements and customs enforcement against imports.

These changes appear likely to increase the due diligence and disclosure requirements for importing and exporting companies that operate in the e-commerce sector who have relied on the *de minimis* exemption to sell low-value items to U.S. consumers. It is far too early to predict the actual effects of this NPRM but, if the Administration (or a successor Administration) were to finalize such changes, presumably the added compliance costs and shipping delays and the imposition of any applicable U.S. tariffs on such imported items would raise the total cost and slow the delivery of such goods and thus dampen the aggregate U.S. consumer demand.

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