

Commercial Customs Operations Advisory Committee (COAC) Government Issue Paper: Section 321

November 2017



U.S. Customs and
Border Protection



Office of Trade/Trade Policy and Programs
Section 321

Action Required: Informational

Background:

- Section 321, De Minimis is the process by which cargo can be imported by one person on one day and as cited in 19 CFR 10.151. The value of the imported cargo may be free of duties and taxes. All existing processes and restrictions for these shipments remain the same. Only the increase in value from \$200 to \$800 has changed as required by Trade Facilitation and Trade Enforcement Act (TFTEA) (Pub. L. 114-125). It is intended to streamline and facilitate the movement low value shipments. The conditions are:
 - The shipment must be imported by one person on one day;
 - The importer must provide evidence of the value by an oral declaration or the bill of lading (or other document filed as the entry) or a manifest listing each bill of lading;
 - Consolidated shipments addressed to one (ultimate) consignee shall be treated as one importation;
 - No alcoholic beverage, perfume containing alcohol (except where the aggregate fair retail value in the country of shipment of all merchandise contained in the shipment does not exceed \$5), cigars, or cigarettes shall be exempted from the payment of duty and tax under these provisions;
 - The exemption to entry is not to be allowed in the case of any merchandise of a class or kind provided for in any absolute or tariff-rate quota, whether the quota is open or closed. In the case of merchandise of a class or kind provided for in a tariff-rate quota, the merchandise is subject to the rate of duty in effect on the date of entry
- One of the provisions of the TFTEA was to establish a 15-day mandatory implementation of an increase in the De Minimis value exemption (Section 321). This provision was implemented timely on March 10, 2016.
- CBP published a rulemaking on August 26, 2016, conforming the amount of the exemption in the regulations to the statutory amount, as well as amending certain regulatory provisions which set forth exceptions to the applicability of the exemption for certain shipments. CBP issued that document as an interim rule, effective immediately upon publication; ample opportunity for public comment was provided for in the interim rule.
- CBP has issued policy guidance to the field. Ports were instructed to amend its standard operating procedures to reflect the increase in the De Minimis identified in the policy guidance and muster by March 10, 2016. Additional information will be provided as it becomes available including possible new limitations based on partner government agency (PGA) requirements or revenue protection initiatives.
- Increasing the value limit of Section 321 will provide for a larger percentage of cargo to enter into the U.S. under the Section 321 rule. This intends to streamline and facilitate the movement of trade.

Issue:

- To brief and discuss with external stakeholders the CBP automated solutions. The TFTEA increased the De Minimis value exemption to \$800.

Current Status:

- In February 2017, COAC formed the E-Commerce/Sect 321 working group under the Trade Modernization Subcommittee. The working group was created to identify challenges for the trade community, public, customs brokers, and the government surrounding the increasing volume of e-commerce and section 321 shipments. In March 2017, the COAC section 321 “Team” was created to identify, and create solutions for challenges due to the De Minimis level change per TFTEA, and both groups were combined in May 2017. A COAC section 321 working group meeting was held on August 2-3, 2017, to discuss future recommendations. Those recommendation were presented to CBP at the COAC committee meeting on August 23, 2017.

Next Steps:

- Continued internal and external stakeholder engagement will be needed throughout to include the development and deployment process.
- A level of effort for the development process needs to be finalized and funding will need to be allocated.
- Automation will be initiated when funding is allocated.

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