



FORMULA ACT

Following the closure of an Abbott plant in Michigan in February 2022 and general supply chain struggles due to the pandemic, the United States has faced an exponentially-growing infant formula shortage. Out-of-stock rates averaged 31% in mid-April, 45% in mid-May, and 74% at the end of May, the most recent time data is available. At the end of May, Washington was one of ten states where the out-of-stock rate was higher than 90%. To make matters worse, restarting formula production at Abbott's Michigan plan was further delayed after flooding from severe storms.

In response to the critical shortages of infant formula, the Food and Drug Administration (FDA) took unprecedented action to temporarily exercise enforcement discretion to increase infant formula in the United States. The FDA's action will more ably facilitate the importation of formula produced in other countries and lasts through November 14, 2022. As of June 10, the Biden-Harris administration has secured commitments to import 130.7 million bottles of formula.

THE PROBLEM: AN INFANT FORMULA SHORTAGE AND SUBSTANTIAL TARIFFS INCREASE COSTS FOR FAMILIES

The FDA's actions have allowed formula to be imported from around the world including Germany, Switzerland, and England. Various types of formula are being imported such as both cow milk- and goat milk-based formulas as well as specialty formulas for children with dairy and soy allergies. However, infant formula faces a substantial tariff when imported from countries without a Free Trade Agreement or that are not part of a preference program. As infant formula is imported into the United States during this period of an infant formula shortage, tariffs will increase the cost of the formula by approximately 27% on average.

THE SOLUTION: TEMPORARILY SUSPEND TARIFFS ON IMPORTED INFANT FORMULA

In a time of unprecedented crisis, the federal government should swiftly seek to remove any barriers that exacerbate the crisis. The FDA has done this by exercising enforcement discretion. Now, it is up to Congress to temporarily suspend the tariffs on imported infant formula so that imported formula is affordable for working families. The Affordable and Accessible Infant Formula Act amends the Subchapter III of Chapter 99 of the Harmonized Tariff Schedule to allow for the duty-free importation of infant formula through December 31, 2022. Suspending these tariffs for the duration of the FDA's current easing import restrictions will lower the cost of infant formula at a time when working families and single parents are struggling.

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