

March 30, 2022

The Honorable Chuck Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Nancy Pelosi
Speaker of the House
United States House of Representatives
Washington, DC 20515

The Honorable Mitch McConnell
Republican Leader
United States Senate
Washington, DC 20510

The Honorable Kevin McCarthy
Minority Leader
United States House of Representatives
Washington, DC 20515

RE: Remove Import Security and Fairness Act from China Competition Bill

Dear Majority Leader Schumer, Republican Leader McConnell, Speaker Pelosi, and Republican Leader McCarthy:

On behalf of the undersigned organizations, we write to express our strong opposition to the Import Security and Fairness Act (Division K, Title 3) that was included in the America COMPETES Act of 2022 (H.R. 4521). This provision was not included in the Senate passed United States Innovation and Competition Act (S. 1260), and we urge its removal from any final conference bill. Restrictions on the use of de minimis would impose sweeping costs on American businesses, workers and consumers, add new inflationary pressures on the U.S. economy, and exacerbate ongoing supply chain disruptions at U.S. ports.

Section 321 (19 U.S. Code § 1321) provides U.S. Customs and Border Protection (CBP) the authority to clear de minimis shipments valued at \$800 or less through an expedited process at the border. The de minimis exemption, which has existed since 1938, helps streamline customs clearance, lowering logistics costs, and lessens the administrative burden on U.S. customs officials who clear millions of shipments through our ports every day.

De minimis disproportionately benefits small and medium businesses, allowing them to import components for subsequent manufacturing in the U.S. or goods for retail sale, helping keep business costs low through simplified processes at the border that minimize red tape. In turn, this savings helps make small businesses more competitive and supports jobs for American workers. De minimis has wide support throughout the manufacturing, retail, logistics, services, and technology industries, and “enjoys broad bipartisan support in Congress.”¹

¹ <https://schweikert.house.gov/sites/schweikert.house.gov/files/2019-10-18%20de%20minimis%20threshold%20letter.%20Schweikert.%20Kind.pdf>.

Small and medium sized businesses are struggling in the current economic climate. Businesses are already facing disruptions as a result of the ongoing pandemic. They are managing employee shortages, rising labor costs, increased import and export costs due to port congestion, and high transportation costs due to transportation-related shortages. With inflation levels now at 7.9%, a 40-year high, the last thing American entrepreneurs need is a new de facto tax on small businesses and consumers.

Restrictions on de minimis would have a similar cost-increasing effect on low-income Americans. As we continue to recover from the pandemic, navigate a period of accelerating inflation, and see increasing energy and fuel costs, restrictions on the use of de minimis would be the wrong policy at the wrong time, as the increased costs and additional tariffs would be passed on directly to consumers. It has been estimated that a \$50 imported good that is currently entering as de minimis could cost as much as \$110 if the bill passes (given the added broker fee, normal customs duty, Section 301 25% duty, and merchandise processing fee). Restrictions on the use of de minimis would constitute one of the most regressive taxes possible because the cost would fall equally on everyone, regardless of their ability to pay for it.

We welcome Congress' interest in addressing enforcement challenges posed by bad actors and those misusing de minimis, but this proposal will only exacerbate such challenges. If enacted, it is likely we will see more illicit and non-compliant trade moving to less scrutinized modes of shipment like the postal environment, where inadequate enforcement of the Synthetics Trafficking and Overdose Prevention Act of 2018 (STOP Act) provides CBP with less information on incoming shipments.

In addition, changes in de minimis eligibility, data and retention requirements, and abandonment mechanisms would likely create confusion and result in a chaotic situation at our ports. Of the 700 million to one billion shipments entering the United States under de minimis yearly, most would require new documentation, including classifying the goods with a Harmonized Tariff Schedule code. These new requirements would likely lead to further supply chain delays and would significantly increase the costs of each shipment, without enhancing security screening.

By contrast, the Biden administration and Congress already have key tools they have not yet implemented to address enforcement challenges. Congress should focus on requiring CBP to fully implement the STOP Act. Additionally, many of the companies represented by the undersigned organizations are currently engaging with CBP in pilot projects to evaluate what additional information is needed to ensure that de minimis shipments comply with all U.S. trade rules and regulations. Enshrining restrictive operational policies in statute will significantly limit CBP's ability to work with the trade community to develop programs that are narrowly tailored to reduce operational vulnerabilities while maintaining business-related benefits. Congress should wait for the results of these programs before taking any legislative action.

Given the clear challenges the Import Security and Fairness Act poses for businesses, workers, consumers, supply chains, and the U.S. economy, we ask that you take our concerns into consideration and work to remove this harmful legislation from any final China competition bill.

Sincerely,

American Association of Exporters and Importers (AAEI)
Cargo Airline Association
Coalition of Services Industries (CSI)
Computer & Communications Industry Association (CCIA)
Consumer Technology Association (CTA)
E-Merchants Trade Council (EMTC)
Electronic Transactions Association (ETA)
Express Association of America (EAA)
Information Technology Industry Council (ITI)
National Association of Manufacturers
National Foreign Trade Council
TechNet
U.S. Chamber of Commerce
United States Council for International Business

CC: Senate Finance Committee Chair Ron Wyden
Senate Finance Committee Ranking Member Mike Crapo
Senate Finance Subcommittee on International Trade, Customs, and Global
Competitiveness Chair Tom Carper
Senate Finance Subcommittee on International Trade, Customs, and Global
Competitiveness Ranking Member John Cornyn
House Ways and Means Chair Richard Neal
House Ways and Means Ranking Member Kevin Brady
House Ways and Means Trade Subcommittee Chair Earl Blumenauer
House Ways and Means Trade Subcommittee Ranking Member Adrian Smith