

February 1, 2022

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

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

The Honorable Steny Hoyer
Majority Leader
United States House of Representatives
Washington, DC 20515

The Honorable Steve Scalise
Minority Whip
United States House of Representatives
Washington, DC 20515

RE: Remove Import Security and Fairness Act from the America COMPETES Act

Dear Speaker Pelosi, Leader McCarthy, Majority Leader Hoyer, and Minority Whip Scalise:

On behalf of the undersigned organizations, we write to express our strong opposition to the inclusion of the Import Security and Fairness Act (Division K, Title 3) in the America COMPETES Act of 2022. 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 low-value components for subsequent manufacturing in the U.S., or goods for retail sale, helping keep prices low by providing simplified processes at the border that minimize red tape. In turn, this savings gives consumers access to a wider variety of goods at lower prices. De minimis enjoys wide support throughout the manufacturing, retail, logistics, services, and technology industries, and “enjoys broad bipartisan support in Congress.”¹

Small and medium sized businesses are struggling in the current economic climate. Businesses are already facing fulfillment 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 6.7%, the highest in over three decades, the last thing American entrepreneurs need is a new de facto tax on small purchases.

Restrictions on the use of de minimis would significantly raise costs, imposing a de facto tax on low-income Americans. As we continue to recover from the pandemic and the recent economic challenges posed by the Omicron variant, as well as navigate a period of accelerating inflation not

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

seen since 2001, restrictions on the use of de minimis would be the wrong policy at the wrong time, as the increased tariffs would be passed on directly to consumers and immediately worsen the inflation rate. 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 massive 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. This would likely lead to further supply chain delays and would significantly increase the costs of each shipment.

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 and urge the administration to work with the private sector to implement key priorities and programs from the January 2020 CBP-led counterfeiting report. In addition, 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. Congress should wait for the results of that program before taking any legislative action.

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

Sincerely,

American Association of Exporters and Importers (AAEI)
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: House Ways and Means Chair Richard Neal
House Ways and Means Trade Subcommittee Chair Earl Blumenauer
House Ways and Means Ranking Member Kevin Brady
House Ways and Means Trade Subcommittee Ranking Member Adrian Smith
Senate Finance Committee Chair Ron Wyden
Senate Finance Committee Ranking Member Mike Crapo