

March 24, 2025

The Honorable Pete R. Flores
Acting Commissioner
U.S. Customs & Border Protection
1300 Pennsylvania Avenue, NW
Washington, DC 20229

Re: Trade and National Security Actions and Low-Value Shipments (USCBP-2025-0003)

Dear Commissioner Flores:

The Footwear Distributors & Retailers of America (FDRA) appreciates the opportunity to provide comments to U.S. Customs & Border Protection (CBP) on its proposed regulations titled “Trade and National Security Actions and Low-Value Shipments”.

FDRA is the footwear industry’s trade and business association, representing more than 500 footwear companies and brands across the U.S. This includes the majority of U.S. footwear manufacturers and over 97 percent of the industry. FDRA has served the footwear industry for 80 years, and our members include a broad and diverse cross section of the companies that make and sell shoes, from small family-owned businesses to global brands that reach consumers around the world.

Many of our member companies have long used de minimis, also known as Section 321 shipments, to deliver footwear to U.S. consumers. Section 321(a)(2) of the Tariff Act (19 USC §1321(a)(2)) provides an exemption from the requirements of filing formal entry on shipments valued at \$800 or less (Low-Value Exemption or LVE). It is important to preserve this program for the U.S. footwear businesses and consumers that rely on de minimis and strengthen the entry requirements to prevent bad actors from abusing the program to bring harmful and illicit goods to consumers in the U.S.

The press release that announced the above Notice of Proposed Rulemaking offered the following statement from then-National Economic Advisor Lael Brainard: “We cannot let Chinese-founded e-commerce platforms gain an unfair trade advantage while American businesses play by the rules. Today’s actions are an important step forward to level the playing field for American workers, retailers, and manufacturers and to enforce U.S. laws that protect the health and safety of our consumers.”¹

FDRA agrees with this stated goal of preventing Chinese-based e-commerce platforms from gaining an unfair trade advantage over U.S. companies. It is also critical that CBP is given adequate resources and information to fight a large number of counterfeit footwear and illicit

¹ <https://www.cbp.gov/newsroom/national-media-release/cbp-proposes-new-rule-strengthen-enforcement-and-limit-duty>

goods entering the U.S. via small shipments. However, the current rule, as drafted, extends far beyond Chinese e-commerce platforms. It would impact any importer that utilizes de minimis, including U.S. companies and U.S. small businesses.

It is important to keep in mind that U.S. small businesses are often the most reliant on China, whose footwear exports are subject to 301 tariffs as well as emergency tariffs under the International Emergency Economic Powers Act (IEEPA). The scale of Chinese footwear production allows entry for all types of footwear at all price points. These small businesses simply cannot find factory partners in countries other than China, because they have relatively small orders.

One small-sized U.S. company and FDRA member relies on the de minimis program and reported the proposed changes would have “catastrophic consequences” for the company. It would immediately expose the U.S. business to additional duty charges ranging from 12 percent to 50 percent of the cost of the footwear. This would total more than a million dollars of increased expenses annually. As the company highlights, “small brands are not able to absorb these additional costs and would either be forced to pass these costs along to U.S. consumers or cease operations.” As the administration looks to make de minimis reforms, it should do so in a targeted way to minimize harm to U.S.-based companies.

There are also reports that two of the largest Chinese e-commerce companies are now moving production outside of China to avoid these additional tariffs. As a result, the current rule, as drafted, may not be sufficient to address the stated concerns about “Chinese-founded e-commerce platforms.” The rule could have the unintended effect of hurting U.S. businesses that rely on de minimis, while at the same time allowing a continued surge of goods from Chinese-based e-commerce platforms, which further harms these U.S. companies. The administration should ensure that the rule will be effective in achieving the intended goals of responding to the challenges created by the volume of goods entering the U.S. through foreign e-commerce platforms.

In addition, CBP processes more than 4 million packages a day under de minimis. One of the main purposes of de minimis is to reduce the administrative burden on CBP in having to clear and assess every single package that comes into the U.S., including those with a small value. FDRA is concerned that multiple tariff actions will be launched this year using many different trade tools, including Sections 301, 232, and 201 trade authorities. Many different 301 tariff actions could soon extend beyond China to target many other countries. If CBP is having to screen all de minimis packages for compliance with U.S. tariff regimes against a host of other countries, such a rule could complicate rather than simplify CBP’s administration of customs clearance.

At the same time, FDRA also believes the de minimis program should be strengthened to prevent bad actors from abusing the program to deliver harmful and illicit goods to unsuspecting consumers in the U.S. With CBP processing over 4 million packages a day under de minimis, we recognize the need to substantially add to the information CBP receives to allow the agency to better analyze and interdict counterfeit merchandise. This includes the listing of the 10-digit Harmonized Tariff Schedule of the United States (HTSUS) classification for the imported merchandise, which could assist CBP in tracking and interdicting IP-infringing goods. These

codes are often omitted in the LVE environment, and this would give CBP an additional basis for denying entry for such small packages.

The new entry information supplied to CBP could also assist brand holders in their enforcement efforts by providing better information on the sellers, exporters, domestic fulfillers, ultimate consignees, and purchasers. Finally, this information could assist brand holders when making claims against online marketplaces, express carriers, and domestic fulfillers involved in the transportation, importation, storage, and fulfillment of infringing goods. These entities often serve as the filer for the low-value shipment, or at the very least, will be the provider of much of the new information.

In conclusion, FDRA appreciates the opportunity to provide feedback to CBP as it examines possible changes to de minimis. Our companies have incalculable real-world expertise in global trade and the movement of goods worldwide and can provide important insight into these complex trade issues, including proposals related to de minimis shipments. We look forward to working with you on this critical issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Matt Priest", written in a cursive style.

Matt Priest
President & CEO
Footwear Distributors and Retailers of America