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March 24, 2025

The Honorable Kristi Noem
Secretary of Homeland Security
U.S. Department of Homeland Security
301 7th Street, SW
Washington, DC 20528

Mr. Pete Flores
Acting Commissioner
U.S. Customs and Border Protection
1300 Pennsylvania Ave., NW
Washington, DC 20229

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

Dear Secretary Noem and Acting Commissioner Flores:

The Consumer Technology Association (“CTA”) welcomes the opportunity to provide comments to the Department of Homeland Security (“DHS”) and the U.S. Customs and Border Protection (“CBP”) to respond to their *Federal Register* notice requesting comments on Trade and National Security Actions and Low-Value Shipments.

CTA represents the more than \$537 billion U.S. consumer technology industry, which supports more than 18 million U.S. jobs. Our members are comprised of over 1200 companies from every facet of the consumer technology industry, including manufacturers, distributors, developers, retailers, and integrators, with 80 percent of CTA members being start-ups or small and mid-sized companies.

CTA also owns and produces CES®—the world’s most influential technology event — which showcases and serves as a forum for discussion of international policies, technology, trade, and industry challenges. CES 2025 drew over 141,000 attendees including over 50,000 from outside the United States, showcasing innovative products and fostering new business partnerships.

CTA appreciates the proposed amendments to the U.S. code to make merchandise that is subject to specified trade or national security actions ineligible for the *de*

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de minimis administrative exemption and to require that certain shipments claiming the exemption provide the 10-digit HTSUS classification of the merchandise. This is a timely and important rulemaking for CTA and the consumer technology industry. New e-commerce companies from China have increasingly exploited the administrative exemption. China's exports of low-value single packages grew from \$5.3 billion in 2018 to \$66 billion in 2023.¹ CBP estimates that from Fiscal Year 2018 to 2021, 67.4% of U.S. *de minimis* imports were from China.²

Many U.S. companies paying the Section 301 tariffs believe this is unfair. To compete with China-based e-commerce companies, U.S. companies are also using the administrative exemption to import low-value shipments duty-free into the United States. Advocates for reforming *de minimis* or eliminating it have expressed concern that companies in China or other countries are illegally shipping fentanyl or pre-cursor substances used to manufacture fentanyl through this exemption.

Given these circumstances, CTA has taken great interest in this rulemaking, focusing on two factors.

First, CTA has long maintained that the administrative exemption is a helpful tool for U.S. companies to import prototypes and samples (that otherwise fall below the value threshold for a formal entry) without paying a tariff. We believe this is a pro-innovation, pro-growth position that benefits small and medium-sized businesses designing and innovating new products in the United States and manufacturing them in other markets. As companies introduce and launch new products for the U.S. market, for example at relevant trade shows such as CES, they use prototypes and samples to demonstrate their product to prospective investors and buyers. Eliminating the administrative exemption for imports of prototypes and samples would increase the cost of doing business for U.S. companies seeking to introduce innovative new products to the U.S. market.

Second, the tariffs imposed on imports from China under Section 301 of the Trade Act of 1974 have been largely ineffective at achieving their stated policy objectives. As the Office of the U.S. Trade Representative has admitted in its own report in May 2024³, the tariffs have not changed China's acts, policies, and practices concerning while causing significant harm to U.S. businesses and consumers. Although CTA's member companies may not like paying the Section 301 tariffs (or other additional tariffs, such as those under Section 201 of the Trade Act of 1974 and Section 232 of the Trade Expansion Act of 1963, and now under the International Emergency Economic Powers Act), they pay them nonetheless because they are good stewards of the economy.

¹ Congressional Research Service, China's E-Commerce Exports and U.S. De Minimis Policies (Feb. 5, 2025), <https://www.congress.gov/crs-product/IF12891>.

² *Id.*

³ U.S. Trade Representative, Four-Year Review of Actions Taken in the Section 301 Investigation: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation (Feb. 2024), <https://ustr.gov/sites/default/files/USTR%20Report%20Four%20Year%20Review%20of%20China%20Tech%20Transfer%20Section%20301.pdf>

Our members increasingly view the administrative exemption as an avenue that e-commerce companies in China are using to avoid paying the Section 301 tariffs.

As such, CTA agrees that DHS and CBP should not allow the exploitation of the administrative exemption by U.S. adversaries such as China and Russia and foreign entities of concern in U.S. adversaries. We also agree that requiring more information for shipments under informal entry, basic entry, and enhanced entry, such as the 10-digit HTSUS classification, would help DHS and CBP achieve their mission of identifying non-compliant shipments.

However, we believe the proposed rule is drafted too broadly and will result in unintended consequences. As such, we offer two recommendations to narrow the proposed rule:

1. ***De minimis* must remain available for companies to import prototypes and samples.** Again, this is a pro-innovation, pro-growth position that provides substantial benefits to small and medium-sized businesses in the United States, especially startups who are unable to manufacture products that they designed in the United States and instead must rely on contract manufacturers in other markets.
2. **DHS and CBP should develop a country-specific approach to *de minimis* rule.** A country-specific approach⁴ to *de minimis* eligibility could address the concerns of DHS while enabling compliant importers trading with lower-risk jurisdictions to continue to utilize the exemption. For instance, one option DHS and CBP could consider is to apply the proposed rule only to imports from U.S. adversaries, or specifically from foreign entities of concern within those adversaries. A second option would be to allow U.S. importers to continue to take advantage of the administrative exemption to import shipments below \$800 per person per day from U.S. free trade agreement partners and treaty allies, even if those goods from our allies are subject to tariffs under the International Emergency Economic Powers Act (“IEEPA”), Section 301 of the Trade Act of 1974, Section 232 of the Trade Expansion Act of 1962, or Section 201 of the Trade Act of 1974.

Eliminating the administrative exemption for shipments from our free trade agreement partners, treaty allies, and even non-adversaries will deteriorate our relationships with these countries across the world. Furthermore, this elimination would increase the cost of products sold directly to U.S. consumers from our historic friends and neighbors. As the analysis in the Federal Register Notice for this rulemaking concludes, it is Chinese imports subject to Section 301 tariffs that are driving the increase in shipments using the administrative exemption. Taking a broad approach to cover other shipments covered by present and future actions under the statutes cited in the proposed rule will lead

⁴ The Congressional Research Service suggested that Congress consider a country-specific approach in its latest report on this issue. See footnote 1 *supra*.

to unintended consequences and, more importantly, harm U.S. businesses and consumers.

CTA would also like to provide our views on the Administration's three executive orders from February 1 on imposing across the board tariffs on all imports from Canada, Mexico, and China under IEEPA to address fentanyl challenges from all three countries.⁵ Each order also stated that U.S. importers would now have to pay any additional tariffs for imports from these countries even if they those products entered the United States using the administrative exemption.

During the negotiated 30-day reprieves, the Administration suspended the elimination of the administrative exemption for low-value shipments from Canada and Mexico, as well as China, due to the lack of preparedness by CBP to process these shipments using basic, enhanced, or formal entry processes. Despite the imposition of the IEEPA tariffs on March 4 for imports from Canada and Mexico and the subsequent exemption for USMCA-qualifying products, the elimination of *de minimis* remains in the executive orders. China did not negotiate a reprieve and retaliated. Now, the Administration is imposing a 20% tariff on all imports from China in response, but the elimination of the administrative exemption for low-value shipments from China is still suspended.

The fact that the administration hesitated to eliminate *de minimis* across the board suggest that the Administration understands that eliminating the administrative exemption will have a significant impact on consumers in the United States, perhaps consistent with the high-impact scenario outlined in the proposed rule. As such, we urge caution on eliminating the administrative exemption more broadly for low-value shipments otherwise covered by trade enforcement actions under the statutes cited in the proposed rule.

Conclusion

CTA supports maintaining the administrative exemption for prototypes and samples, as it fosters innovation and growth for small and medium-sized businesses in the United States. Additionally, CTA agrees that the administrative exemption should not be used by U.S. adversaries and supports the requirement for more detailed shipment information. However, the proposed rule is too broad and risks harming US businesses, consumers and international trade relations. We strongly recommend a more targeted approach that preserves *de minimis* for prototypes and samples to support american innovation; and implements a country-specific framework to limit *de minimis* for adversaries while allowing trusted trade partners to continue using it. We appreciate the opportunity to contribute to this rulemaking process and look forward to working with DHS and CBP to craft policies that balance trade security with economic growth.

⁵ Exec. Order No. 14193, 90 F.R. 9113 (2025); Exec. Order No. 14194, 90 F.R. 9117 (2025); and Exec. Order No. 14195, 90 F.R. 9121 (2025).

Sincerely,

A handwritten signature in black ink, appearing to read "Edward J. Brzytwa II". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Ed Brzytwa
Vice President, International Trade
Consumer Technology Association

A handwritten signature in black ink, appearing to read "Michael Petricone". The signature is more blocky and less cursive than the one above, with a distinct "M" and "P".

Michael Petricone
Senior Vice President, Government Affairs
Consumer Technology Association