



**We Make Global Trade Happen**

Via:

November 5, 2020

Office of Information and Regulatory Affairs  
Office of Management and Budget  
725 17<sup>th</sup> Street, NW  
Washington, DC 20502

ATTN: Paul Ray, OIRA Administrator

Re: Excepting Merchandise Subject to Section 301 Duties from the Customs De Minimis Exemption  
RIN: 1515-AE57

Dear Ray:

On behalf of the American Association of Exporters and Importers (AAEI), we are submitting information concerning the proposed rule submitted by U.S. Customs and Border Protection on Excepting Merchandise Subject to Section 301 Duties from the Customs De Minimis Exemption pending before the Office of Information and Regulatory Affairs (OIRA). AAEI participated in the teleconference with OIRA and other agencies as to whether the proposed rule include a cost/benefit analysis as required under E.O. 12866.

AAEI has been a national voice for the international trade community in the United States since 1921. AAEI represents the entire spectrum of the international trade community across all industry sectors. Our members include manufacturers, importers, exporters, wholesalers, retailers and service providers to the industry, which is comprised of customs brokers, freight forwarders, trade advisors, insurers, security providers, transportation interests and ports. Many of these enterprises are small businesses seeking to export to foreign markets. AAEI promotes fair and open trade policy. We advocate for companies engaged in international trade, supply chain security, export controls, non-tariff barriers, import safety and Customs and Border Protection issues. AAEI is the premier trade organization representing those immediately engaged in and directly impacted by developments pertaining to international trade. We are recognized as the technical experts regarding the day-to-day facilitation of trade, including the administration of and compliance with import and export laws of the United States.

During our October 2<sup>nd</sup> discussion with OIRA, the Small Business Advocate requested data on what impact of complying with the proposed rule would be to small business, and thus, have an impact greater than \$100 million on the economy. (The Express Association of America advised OIRA that the proposed rule would impact 120,000 express shipments per day.) AAEI has reached out to the e-commerce industry (e.g., market platforms and omnichannel retailers) both within and outside

its membership to assess the number of micro and small-medium enterprises (MSMEs) who are sellers of products in order to calculate the potential impact of the proposed rule.

AAEI reviewed data from a number of sources:

- Directly from the company;
- Company websites showing economic impact of their company, including data about its seller; and
- Independent corporate data websites

AAEI's research found over 12 million sellers using e-commerce platforms and retailers to sell physical products in the United States. (This data does not include all the major platforms or e-commerce sites because a specific number of "sellers" was identified.) Of the total universe of 12 million sellers, AAEI estimates that over 4.6 million sellers are MSMEs. We derived that figure using the following methodology:

- Use the number provided by the company if it specified the number of sellers who are SMEs as an absolute number or as a percentage of its total number of sellers. Most of these companies report that MSME sellers comprise over 80% or 90% of their sellers.
- If the company did not report specific numbers or percentages of MSMEs, AAEI used 50% as a percentage of its total number of sellers as MSMEs.

Based on AAEI's estimate of 4.6 million MSME sellers, we calculate that each seller would need to incur just \$21.29 of additional cost to reach \$100 million in economic impact. We believe that if CBP imposes section 301 duties, 25% in the case of products imported from China, an MSME seller would simply need one shipment of \$86 to incur \$21.50 in additional cost, and thus, easily reaching the \$100 million threshold requiring a cost/benefit analysis under E.O. 12866.

AAEI appreciates the opportunity to comment on the impact on MSMEs concerning the pending rule before OIRA.

Sincerely,



Marianne Rowden  
President & CEO