



April 20, 2021

The Honorable Katherine Tai
United States Trade Representative
600 17th St NW
Washington, DC 20508

Dear Ambassador Tai:

On behalf of the PeopleForBikes Coalition, we write to express our concern regarding the *de minimis* duty exception and the continued harm that this policy causes the bicycle industry. We ask that you consider reforms to *de minimis* policies, or statutory changes with Congress, that will bring U.S. policy into alignment with our trading partners.

The PeopleForBikes Coalition is the national advocacy group and trade association that works for better policies and infrastructure for bike riding. Our coalition includes nearly 300 companies and brands that manufacture, distribute, or sell bicycles and related products.

In 2016, President Obama signed the Trade Facilitation and Trade Enforcement Act of 2015.¹ This law raised the value of a shipment of merchandise that may be imported free of duties and taxes from \$200 to \$800. This increase in *de minimis* value dramatically affects the sale of consumer goods in the United States, including the bicycle products that our companies design and manufacture, by shifting purchases formerly made from American retailers to foreign online sellers.

In order to reduce the administrative burden of collecting tariffs for small shipments, almost every country specifies a *de minimis* amount for which tariffs and duties are not collected. Most countries set these *de minimis* amounts at much lower levels than the current U.S. amount. Examples of key trading partners with much lower thresholds (in approximate U.S. dollars) include:

- Canada - \$120
- Mexico - \$50
- European Union - \$180
- United Kingdom - \$185
- Japan - \$90
- Taiwan - \$70

While our prior *de minimis* level of \$200 was similar to these trading partners, the recent increase to \$800 vastly exceeds these global norms and gives foreign sellers an unfair advantage.

Since its enactment, the increase in the *de minimis* threshold has provided a clear and direct competitive advantage for foreign retailers of consumer goods. Customers can shop online from internationally based retailers or manufacturers, which advertise the fact that tariffs are not collected on shipments below \$800, and buy products duty free. In essence, our law enables foreign businesses to set artificially low prices by avoiding tariffs on goods that would be collected if imported by U.S. businesses and sold domestically. This pushes sales out of the U.S. and reduces the number of jobs our industry can provide to Americans.

The application of the *de minimis* exemption to the Section 301 China tariffs has compounded this problem. This is of significant concern for the U.S. bike industry because China accounts for 89% of U.S. bicycle imports. By exempting *de minimis* shipments from the additional 25% duty that applies to most bicycles and bicycle products, foreign sellers now enjoy an even greater advantage on products that would be tariffed if imported through traditional channels. For example, a foreign direct-to-consumer complete bicycle from China that is under the *de minimis* value would avoid paying 36% in duties (11% base tariff plus 25% Section 301 tariff). Because the current *de minimis* level is so high, the vast majority of bicycles sold in the United States fall within it. The average retail sales price of a bicycle in

¹ This rule is codified at 19 U.S.C. § 1321(a)(2)(C), and is implemented through regulations located at 19 C.F.R. §§ 10.151-10.153.

2020 was \$274.13. **This means a foreign seller of an average bicycle can avoid \$98.69 in import duty by entering the bicycle under *de minimis*.** Accessories and components are overwhelming less than the *de minimis* amount as well, and foreign sellers enjoy similar benefits when selling these products into the U.S. Domestic sellers cannot compete against such significant economic advantages.

Beyond the damaging effect this policy has on domestic retailers and businesses, there are also safety and consumer protection concerns that come with greater consumer direct imports of bicycle products from abroad. U.S. bicycle businesses are required by the Consumer Product Safety Improvement Act [P. L. 110-314, as amended by P.L. 112-28] and U.S. Consumer Product Safety Commission regulations to provide certification that the bicycles and helmets they import have been tested and comply with all applicable safety regulations, including those regulating lead and phthalate content of children's bicycles. Because no formal customs entry is required for a *de minimis* shipment, no such certification is required for any bicycle, children's bicycle or helmet valued by the foreign seller at under \$800. Specifically, we are concerned that some imported products may not in fact be compliant with U.S. safety regulations and may pose a risk to public safety. Consumers are also frequently given no recourse for warranty or service concerns when their foreign-sourced products fail, nor is there legal recourse available when a business has no domestic presence. The U.S. bicycle industry is committed to providing our customers with safe products and we believe that some consumer direct imports undercut their safety.

These concerns are not hypothetical. Our members have been directly affected by counterfeit and unsafe products shipped direct to consumer. This is a particularly serious problem with respect to helmets, where counterfeit products may offer the consumer almost no protection against head injury in the event of a crash.² The U.S. Consumer Product Safety Commission recognizes the issue, commenting "[w]e are trying to determine who are these manufacturers, who are sending in helmets that don't comply with our safety standards."³ The current *de minimis* level undermines these consumer protection efforts.

The safety concerns related to consumer direct sales affect more than U.S. customers. Consumer direct shipments pose security concerns for our federal agencies, who must ensure the security of shipments entering the United States. The increase in *de minimis* value encourages and enables even more of these shipments from abroad, compounding the already difficult task of assessing the security threat of materials entering the United States.

We recognize that the objective of *de minimis* is to avoid expense and inconvenience to the federal government that is disproportionate to the amount of revenue that would be collected. However, we do not believe that the administrative expense of collecting tariffs on these relatively low value imports can justify raising the *de minimis* amount to its current high level. As noted above, many of our trading partners in developed nations set the *de minimis* amount at a much lower level and still run efficient tariff collection systems that provide revenue to their governments. Further, there are potential easy solutions to the question of administrative burden, such as a fixed tariff on *de minimis* shipments.

We ask that you work to reform *de minimis* in order to solve these problems. The current law undermines U.S. competitiveness and places U.S. bicycle riders at risk. Thank you for considering our concerns.

Sincerely,

A handwritten signature in black ink that reads "Jenn Dice". The signature is stylized with a large, sweeping "J" and a cursive "Dice".

Jenn Dice, president + CEO
PeopleForBikes

² Fake Bike Helmets: Cheap but Dangerous, National Public Radio (Sept. 16, 2018) (available at: <https://www.npr.org/2018/09/16/647377213/fake-bike-helmets-cheap-but-dangerous>).

³ Counterfeit bike helmets don't comply with safety standards, says CPSC, ABC Eyewitness News (May 29, 2019) (available at: <https://abc7chicago.com/counterfeit-bike-helmets-helmet-risks-safety-consumer-product-commission/5321780/>).