Testimony of Andy Warlick, Chairman & CEO
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Ranking Member Blumenauer and distinguished Committee members, thank you for the opportunity to testify on this subject that is so important to our nation, to the U.S. textile industry, and to me personally and the men and women who work for Parkdale Mills.

My name is Anderson Warlick, and I am chairman and CEO of Parkdale Mills, which is headquartered in Gastonia, North Carolina. We are one of the world's leading manufacturers of spun yarns, with significant operations in the United States and the Western Hemisphere.

I am grateful for Ranking Member Blumenauer's leadership and to all of you here today. De minimis is severely impacting my company, U.S. textile and apparel manufacturers, brands and retailers, and our Free Trade Agreements (FTAs). I can't emphasize enough the urgency to close the de minimis loophole.

Parkdale History

As an industry leader for over 100 years, Parkdale produces 900 million pounds of yarns annually, enough yarn to manufacture 1.56 billion T-shirts every year. Our company is the largest domestic consumer of U.S. cotton, using 755 million pounds of U.S.-grown cotton per year, accounting for approximately 60 percent of total U.S. cotton consumption. Parkdale currently has 21 operations in the U.S. and Latin America. In the United States, Parkdale operates 15 locations in seven different states. Ninety-nine percent of our yarn exports go to Western Hemisphere countries, with 78 percent of our exports going to the Northern Triangle countries. Those exports support 3,500 jobs in the U.S. and have a substantial impact on employment in the region. We estimate that for every single yarn job created, there are 20 more direct and indirect jobs created throughout the hemisphere's supply chain. This demonstrates the incredibly strong and valuable nature of the textile and apparel co-production chain between the United States and the Western Hemisphere.

Parkdale also worked hand in hand with our Central American customers to retool production lines, literally overnight at the height of the COVID crisis, to manufacture desperately needed personal protective equipment (PPE) for the U.S. government. Since the onset of the COVID-19 pandemic, Parkdale has become one of the federal government's largest domestic suppliers of PPE products, producing over 450 million testing swabs, more than 100 million face masks, and over 60 million level-1 isolation gowns. Parkdale is a proud supplier of a broad spectrum of yarns to the U.S. military.

Over nearly a decade, our company has made significant capital investments totaling $500 million, creating more than 1,500 jobs. We believe in constantly investing in our operations and people and have a relentless commitment to providing innovative and cost-effective solutions to our customers.

The U.S. textile sector is an extremely diverse, technically advanced, and highly capital-intensive industry that involves a multi-stage production chain. This domestic production chain is comprised of suppliers in the cotton, wool, and man-made fiber sectors; yarn and fabric manufacturers; dyers, printers, and finishers; and our customers in the U.S. apparel, textile home furnishings, automotive, aerospace, construction materials, energy exploration, medical, military, and other end-use industries.

The domestic textile industry is an important component of the U.S. economy with production found in every region of the country and responsible for nearly $66 billion in total output in 2022. The industry provides much-needed jobs in rural areas and has functioned as a springboard for workers out of poverty into good-paying jobs for generations. The breadth, scope and manufacturing capabilities of the industry are unparalleled—the industry has invested $21 billion over the past 10 years in the latest innovations on sustainability and production capabilities. This focus on innovation enables the industry to create hundreds of thousands of products including apparel, industrial textiles, military uniforms and other defense applications.

The De Minimis Loophole

Despite having spent my entire 44-year career in this sector—a career that has seen massive industry upheavals due to the adoption of NAFTA, the granting of PNTR to China, the accession of China to the WTO, and the incredibly difficult economic downturn of the Great Recession—our industry and my company have never seen the level of economic difficulty that we are currently facing. Nearly every textile facility in the country is now running at significantly reduced capacity, and many production lines are completely idle. As an industry, we have seen no fewer than eight significant plants cease operations and shut down in the past 12 weeks, leaving 1,000 working men and women without a job right before the holidays.

These closures are just the proverbial canary in the coal mine. Unless something is done immediately to address this dire situation, we will see these American manufacturing closures accelerate in the weeks and months ahead. While there are several factors that have contributed to this situation, I believe that as an industry we would be able to weather this economic storm if not for a little known, pernicious loophole that has been exploited at an extraordinary scale in recent years by predatory companies based in and sourcing from China: the de minimis loophole.

De minimis was originally designed in the 1930s to ease the burden on U.S. Customs agents of monitoring unpaid taxes on trinkets American travelers transported when returning from abroad. As the targets were American tourists and the cost required to monitor travelers was more than the minimal tariffs collected, this trade was considered both low-risk and "de minimis"—meaning smallest, least, trifling.

Over years of questionable agency rulemaking, the de minimis exemption was first extended to catalogue orders fulfilled by a U.S. company's Canadian warehouse, then broadly to all e-commerce regardless of country of origin. Rulemaking also redefined that the importer of record—the accountable party for the shipment—was no longer the shipper who originates the package (and has visibility as to its origin and contents), but the end consumer who placed the order. This created a system where there are no duties or fees, essentially no paperwork, and virtually no scrutiny or accountability for de minimis imports.

De minimis shipments totaled 150 million total packages in FY 2016, a number that exploded to over one billion individual packages in FY 2023 and is expected to double in just a few short years. It is estimated that half of the de minimis packages are textile and apparel packages coming in through a legalized back door and facilitating unethical and illegal products to our doorstep—undermining all attempts to onshore and nearshore critical supply chains like textiles and apparel.

This trade is now no longer minimal—it is costing the U.S. Treasury $10s of billions in revenue annually—and it's costing domestic U.S. taxpaying companies everything.

Some say that de minimis is not a loophole at all, but that Congress intended the system that we see now. While de minimis may not be a "tax loophole" since by definition de minimis gives Customs and Border Protection (CBP) the authority to waive tariffs, as it currently exists, it is a loophole in practice that has created a host of problems that Congress never intended and CBP cannot enforce:

- Fentanyl Loophole: CBP reports that in the de minimis environment it is extremely challenging to target fentanyl and illicit drug shipments which are growing through this black-market channel. The reasons for illicit drugs gravitating toward de minimis are simple: there is an extremely low risk of getting caught and, even if caught, there is virtually zero risk of being held accountable as the shipper in many cases is essentially anonymous.
- Health and Safety Loophole: Products entering the U.S. through formal entry, meaning in a bonded shipment through a port of entry, are subject to high standards set by the FDA, CPSC, EPA, and other federal agencies to keep dangerous, faulty, and subpar products from American consumers. Products entering via de minimis avoid even cursory screening for compliance with U.S. laws, leading to serious problems like EV batteries that catch fire, toys that contain lead paint, PPE and helmets that fail to provide protection, and innumerable other hazards. Products without standards are cheaper to produce and yield a higher profit margin, and de minimis provides them VIP express entry to the U.S.
- IPR Loophole: De minimis is a superhighway for high-end counterfeit consumer products and putting our retailers out of business.

The result of this loophole is an overwhelming flood of illegal, illicit, and unethical products entering the U.S. with an express pass—three million de minimis shipments entering the U.S. each day, largely uninspected and tariff free. By definition, a "de minimis" package is deemed to represent an amount of trade that is too minimal for CBP to review or collect any tariffs on, including China 301 penalties. However, with the current level of and growth projections for e-commerce in the de minimis environment this is clearly no longer "minimal trade." Due to the lack of even cursory transparency and insight into this trade, it is impossible for CBP to enforce trade laws like our FTAs, and China and others are rewarded with a de facto FTA with no strings attached.

As a result, under the U.S. de minimis tariff waiver system, China and every other country in the world effectively has FTA access to the U.S. for products under $800. Further, the $800 cap is on the retail value of the shipment in the home market, not the price actually paid, which makes it easy to undervalue goods. This access is a pure gift and comes without any of the hallmarks of a negotiated free trade agreement, including no rule-of-origin requirements, reciprocal market access, or labor or environmental standards. To put this another way, under our de minimis program, the U.S. provides duty-free, direct-to-consumer FTA access for all Chinese products that are priced under $800. China does not offer other countries the same generous program, maintaining its own de minimis level at a mere $7USD.

This fundamentally undermines the promises we have made to our trusted FTA and preference partners in the Western Hemisphere. In exchange for duty-free access to our lucrative consumer market, these partners had to first agree to high labor and environmental standards and other integral commitments to the rule of law, market economics, and fair trade. Our trade partners see these commitments as fair tradeoffs. Our de minimis waiver system, however, blows a hole straight through the reciprocal commitments at the heart of our FTA structure: Right now, Chinese companies enjoy virtually unlimited U.S. market access with no standards, commitments, or reciprocity as long as their business model ships products directly to consumers through the mail instead of in a cargo container.

This exponential growth in de minimis imports has allowed mass distributors, such as Shein and Temu—which are estimated to account for 30 percent of de minimis shipments—as well as Amazon, to facilitate millions of direct duty-free, virtually uninspected de minimis shipments each day.

Ask yourself a simple question: If I am an apparel or other consumer product company, why would I bother with investing in domestic retail stores, warehouses, and logistics operations; paying U.S. wages to a significant domestic workforce; and seeking out regional supply chains that offer duty-free market access through an FTA, when I can simply centralize all of my production in the lowest-cost, lowest-standard regions of the world and convert my operations into a duty-free direct-to-consumer model? How else will any U.S. company be expected to compete against this irrational and exploitative de minimis system? U.S. trade policy is meant to incentivize high standards and fair trade; de minimis undermines those values and only incentivizes the opposite.

Closing the Loophole

For all of these reasons, it is imperative that Congress act with all urgency to close the de minimis loophole as soon as possible. The impacts we are seeing and feeling here in the U.S. and across the industry throughout this hemisphere are only the beginning of a more massive calamity that will shortly take place once de minimis trade explodes further in the next few years. At that point, it may be too late to undo the damage to our manufacturing base and critical supply chains. We are also asking the administration to use all its current authorities under the statute to close this damaging loophole, but I want to amplify the need for congressional action.

I want to take this opportunity to address head on perhaps the two biggest questions I hear with regard to ending the de minimis loophole: First, can U.S. Customs and Border Protection adequately conduct enforcement if de minimis trade shifts from the mail and express shipping to more traditional entries? And next, how will ending de minimis for e-commerce impact prices for American consumers?

<u>Can U.S. Customs and Border Protection adequately handle a shift in trade?</u>
To begin, it is important to note that CBP is not even remotely equipped to handle enforcement of de minimis trade as it now exists. CBP plainly admits that it does not have the necessary data to do its job for de minimis shipments. In June 2023, CBP noted that "The overwhelming volume of small packages and lack of actionable data limit CBP's ability to identify and interdict high-risk shipments that may contain narcotics, merchandise that poses a risk to public safety, counterfeits, or other contraband." The agency further reported that for the over 685 million de minimis shipments it cleared in FY 2022, it had "insufficient data to properly determine risk."[1]

More recently at a CBP Trade Advisory Committee meeting this past September, Troy A. Miller, CBP's senior official performing the duties of the commissioner, told members of CBP's Commercial Customs

[1] https://www.cbp.gov/sites/default/files/assets/documents/2023-Jun/NGFE-C~1.PDF

Operations Advisory Committee that "Due to e-commerce, the volume of [de minimis] shipments has skyrocketed…." Mr. Miller reported that CBP was tracking to exceed a billion shipments for the first time ever, which makes "screening these shipments and ferreting out contraband incredibly challenging."[2]

As a practical matter, since CBP is unable to adequately enforce the trade that is currently entering via de minimis, we should therefore not worry about a drop in enforcement once de minimis ends.

To the contrary, closing the de minimis loophole would actually help CBP because we would expect to see much of the unmanageable volume of anonymous trade from the de minimis environment shift to the formal entry environment and be shipped through normal ports of entry on freight as opposed to one billion small international mail packages. Trade entering the U.S. at a port of entry is required to have a licensed broker and bond, in addition to reasonable paperwork detailing products, value, HTS number, tariffs owed, the identity of both the shipper and receiver, and other vital information required for effective enforcement and accountability. This trade is manageable—three million individual packages arriving daily without any of these requirements is not.

It is also worth noting that the U.S. is virtually alone in the world when it comes to sitting idly by while we are targeted by China's predation via de minimis. Noting that de minimis "is heavily exploited by fraudsters," the EU is currently considering a proposal to completely end de minimis treatment for e-commerce—adjusting its de minimis threshold from €150 down to €0. In making this proposal, the European Commission reported that up to 65 percent of all de minimis packages received in the bloc were purposely undervalued by shippers in order to qualify for duty-free benefits.[3] Further, since 2021, all shipments into the EU have been required to make a formal customs declaration and remit Value Added Tax.[4] Canada requires online retailers to list the country of origin for products and collects proper duties when foreign e-commerce enters the country. In Australia, overseas suppliers including online e-commerce platforms that sell over $75,000 AUD (~$50,000 USD) a year into that market are required to register and remit Goods and Services Tax of 10% of the landed value. Formal import clearance is also required in Australia. We should take note of and seek to replicate these reasonable actions.

Finally, it should be noted that CBP has a fully automated computer-based tariff collection system. Consequently, the task of actually collecting the duties on each of these shipments is no more complicated, burdensome, or costly than those associated with all other formal entries.

<u>How will ending de minimis impact prices for consumers?</u>

Contrary to much fearmongering by Chinese e-retailers and their allies, ending de minimis for e-commerce will not kill the internet or undermine e-commerce as a sales platform. We can see in the rest of the world where countries have put their citizens and the rule of law first and closed off de minimis that e-commerce still remains a viable and profitable retail option. Some might argue that while this may be true, consumers are going to be hit with higher costs as a result of tariffs being applied to online orders of fast fashion and other items.

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[2] https://www.cbp.gov/newsroom/spotlights/cbp-trade-advisory-committee-convenes-fiscal-year-end-public-meeting

[3] https://taxation-customs.ec.europa.eu/customs-4/eu-customs-reform_en

[4] https://taxation-customs.ec.europa.eu/customs-4/customs-procedures-import-and-export-0/customs-procedures/customs-formalities-low-value-consignments_en

For an analogue, we can review what impacts the China 301 penalty tariffs had on the price of Chinese goods since going into effect. The U.S. International Trade Commission (ITC) studied the effect of 301 tariffs on import prices of apparel and other consumer products and found either no or minimal increases for importers. Testimony suggested that these actions boosted domestic manufacturing "without substantially increasing prices for final consumers." China was even found to have dropped their pre-tariff prices on apparel from 2016 to 2021. In addition, any concerns that closing de minimis will impact inflation are unwarranted as the ITC notes the favorable impact Section 301 penalties had boosting domestic production and reducing dependence on China. Closing de minimis creates significant opportunities for onshoring and nearshoring, helping to stabilize critical manufacturing sectors.[5]

To better understand the economics at play for U.S. consumers, consider the following example. As currently administered in the U.S., a product's tariff is not applied to its U.S. retail price but to its "first sale" price, similar to a product's wholesale cost in the country where it originates and before any profits from brokers or middlemen. For a pair of jeans from China, the pre-duty unit cost in the U.S. is an astonishingly low $4.71 as of 2023. If we apply the duty rate for jeans from China (16.6 percent regular duty and 7.5 percent China 301 penalty duty), the duty owed is $1.14. This is a negligible sum that does not significantly impact consumer buying power, and this principal holds true for nearly all consumer products exploiting de minimis. Further, it is also possible as has been observed in the Section 301 tariff context, that U.S. consumers will never even be impacted by the tariff as a Chinese manufacturer lowers its pricing to offset the tariff and/or the retailer absorbs it noting the high markup they enjoy.

We might ask why should an order via e-commerce receive different tax treatment from the same order conducted at traditional retail? In a way, this issue is not dissimilar to the debate in Congress several years ago regarding whether state sales taxes ought to be applied to an e-commerce purchase. At the time many states and retailers wondered why a purchase conducted via an e-commerce platform should receive different tax treatment than if the same sale were conducted in person. Congress decided then that the same tax laws that apply to a sale conducted at traditional retail should apply to e-commerce as well. Opponents claimed this solution would undermine e-commerce and raise consumer prices—neither of which was true. Congress should apply the same wisdom here and ensure that de minimis e-commerce receives the same tax treatment as all other commerce.

The main and biggest beneficiary of the meteoric rise in de minimis has not been U.S. consumers, but rather the People's Republic of China at the expense of domestic industries and our workforce. China has exploited de minimis to create massive demand for Chinese products, bypassing U.S. remedies meant to penalize China for predatory practices and diversity supply chains, like Sec. 301 penalties. As a result, those consumers who might save a few pennies on fast fashion from Shein will also find that manufacturing jobs across America have been permanently offshored to China, retail storefronts have become ghost towns, and communities are left to cope with the effects of the deadly flood of fentanyl arriving via de minimis.

Conclusion

For far too long, we have permitted China to set the global agenda, undermining U.S. values and ideals and harming our workers and trading partners in the Western Hemisphere. What was once an obscure administrative tool afforded by Congress to CBP to improve efficiency for travelers has become a

[5] https://www.usitc.gov/publications/332/pub5405.pdf

superhighway for illegal products as a result of ineffective rulemaking and a lack of adequate congressional oversight.

In closing,

> If you care about U.S. manufacturing, American workers, and working men and women in our free trade regions, close de minimis.
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> If you care about fair trade and high labor and environmental standards, close de minimis.
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> If you care about tens of thousands of U.S. fentanyl deaths and the impact this epidemic is having on our communities, close de minimis.
>
> If you think that the U.S. government has a duty to protect public health and safety by preventing deadly products from being sent to our doorsteps directly from the People's Republic of China, close de minimis.

I know that the members of this committee care passionately about these issues. This is a critical time for action; we are at a tipping point. The massive recent success of Shein and Temu is not only decimating U.S. and regional manufacturing, but every major company in this country will soon be forced to make its own decision about how best to compete in the wild west of e-commerce de minimis. It is extremely likely that, unless Congress takes decisive action, Shein's model will be replicated thousands of times over and the effects will be catastrophic. Given the situation we are facing, we are also asking the administration to explore using its current authorities to close this dangerous loophole. We strongly urge Congress to immediately act.

I thank you for the opportunity to testify today and for the committee's attention to these critical issues. I look forward to answering your questions and working with you in the weeks and months ahead to close the de minimis loophole once and for all.