

July 27, 2023

The Honorable Ron Wyden
Chairman
Committee on Finance
United States Senate
Washington, DC 20510

The Honorable Jason Smith
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

The Honorable Mike Crapo
Ranking Member
Committee on Finance
United States Senate
Washington, DC 20510

The Honorable Richard Neal
Ranking Member
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Chairmen Wyden and Smith and Ranking Members Crapo and Neal:

On behalf of the undersigned organizations, we strongly oppose S. 1856 / H.R. 3882, the “Leveling the Playing Field 2.0 Act” (previously known as the “Eliminating Global Market Distortions to Protect American Jobs Act”) and its enactment as a standalone measure or part of a broader legislative package.

This legislation would make far-reaching changes to technical trade remedy rules — known as U.S. antidumping and countervailing duty laws — in ways that would benefit a handful of domestic interests at the expense of all other sectors of the economy, especially downstream purchasers of primary industrial inputs.

Proponents of this legislation contend it aims to address steel overcapacity and Chinese market-distorting activities. However, the legislation’s reach goes far beyond China and would result in the application of more and higher tariffs on imports from U.S. trading partners — with a considerable impact on imports from close U.S. allies — and thereby contribute to inflationary pressures internalized by American businesses and consumers. The legislation would also likely invite retaliatory measures from affected countries, which have historically targeted politically sensitive products. Additionally, this bill, if enacted, may elicit the enactment of similar legislation abroad that could limit U.S. exports of agricultural and industrial goods.

U.S. tariffs have risen dramatically in recent years. Many U.S. manufacturers and retailers are already subject to the increasing costs stemming from new tariffs — including Section 232 and Section 301 duties, expired trade preference programs, and the growing number of AD/CVD orders (657 across at least 59 different countries¹). Over the past two years, the United States imposed 45 new AD orders and 38 CVD orders.² In fiscal year 2021 alone, \$30.2 billion³ of imported goods were subject to AD/CVD orders — up from \$18.2 billion the year

¹ <https://www.gao.gov/products/gao-23-105794>

² [https://ustr.gov/sites/default/files/2023-02/2023%20Trade%20Policy%20Agenda%20and%202022%20Annual%20Report%20FINAL%20\(1\).pdf](https://ustr.gov/sites/default/files/2023-02/2023%20Trade%20Policy%20Agenda%20and%202022%20Annual%20Report%20FINAL%20(1).pdf)

³ <https://www.gao.gov/assets/gao-23-105794.pdf>

before. This legislation would add to this financial burden and obstruct the global competitiveness of a broad range of businesses in the United States.

The legislation's primary proponent — the domestic steel industry — is already well-protected by these measures and other tools in effect. Of the more than 650 AD/CVD orders⁴ in place today, more than half apply to types of steel products.⁵ Additionally, for a bill that is aimed at addressing non-market economies, it would hit allies particularly hard. While the U.S. has over 230 AD/CVD duties in place on Chinese goods — with the result that Chinese imports represents less than 2% of total U.S. steel consumption — this proposal would target steel and aluminum imports from Germany and Japan, amino acid and chemical imports from France, and pastas from Italy.

Further, the legislation would have a severe impact on an array of agriculture imports like biodiesel and fertilizers, with significant new burdens on American farmers and ranchers. Not only would these changes lead to higher costs for inputs necessary to U.S. manufacturers, but they would also hit consumer goods, retail, auto and renewable energy sectors especially hard. Such costs would then be amplified if countries impacted by these new measures chose to retaliate in kind – a likely option if enacted into law.

Specifically, the legislation would establish a new concept of “successive” investigations, which would prejudice parties — including U.S. importers — that were not involved in the past cases and could potentially impede full examination of the facts. The legislation could call into question previous AD/CVD determinations of all shapes and sizes and sweep in unsuspecting suppliers that had nothing to do with the original complaint. It also seeks to revise historically accepted methodologies for calculating AD/CVD duties to increase duty rates that will ultimately be paid by U.S. importers and consumers.

In addition, it would compress timelines, move up deadlines, and limit extensions in AD/CVD proceedings in ways that would hamstring agencies and respondents already scrambling to meet timelines outlined in the statute. Tighter deadlines will inevitably result in more AD/CVD orders than is appropriate – creating an overly broad application that sweeps in legitimate trade.

The “whack a mole” issue described by proponents of the proposal deserves to be addressed in a thoughtful way, one that will only happen via due process, thorough economic analysis and significant input from segments of the broader economy. Current AD/CVD law contains no provisions requiring the U.S. International Trade Commission or Commerce Department to consider potential negative economic effects on downstream industries when making trade remedy determinations.

At a time when the Congress should be aiming to enhance the global competitiveness of American industry and the attractiveness of the United States as a venue for both domestic and international investment, heaping new tariff burdens on American industry would send exactly the wrong signal. By substantially raising prices for a host of industrial inputs, this measure will

⁴ <https://www.trade.gov/data-visualization/adcvd-proceedings>

⁵ https://access.trade.gov/ADCVD_Search.aspx

undermine the growth of the innovative, value-added manufacturing industries that the United States should be working hard to support and attract. It is these innovative, globally competitive industries that represent the “commanding heights” of the modern global economy, and policymakers should be working to support their growth in the United States — not impede it.

We urge lawmakers not to enact this legislation and instead focus on measures that would enhance American competitiveness.

Sincerely,

American Apparel & Footwear Association
American Automotive Policy Council (AAPC)
American Bakers Association
American Clean Power Association
American Petroleum Institute
Autos Drive America
Consumer Technology Association
Corn Refiners Association
Fresh Produce Association of the Americas
Global Business Alliance
Information Technology Industry Council (ITI)
Independent Bakers Association
National Association of State Departments of
Agriculture
National Chicken Council
National Corn Growers Association
National Foreign Trade Council
National Grain & Feed Association
National Milk Producers Federation
National Retail Federation
National Turkey Federation
North American Export Grain Association
North American Renderers Association
Northwest Horticultural Council
Retail Industry Leaders Association
Sweetener Users Association
USA Poultry & Egg Export Council
U.S. Apple Association
U.S. Chamber of Commerce
U.S. Council for International Business
U.S. Dairy Export Council

cc: Members of the Senate Committee on Finance
Members of the House Committee on Ways and Means