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## Senate Finance Holds Trade Hearing

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The Senate Finance Committee's February 16 hearing, "Ending Trade that Cheats American Workers by Modernizing Trade Laws and Enforcement, Fighting Forced Labor, Eliminating Counterfeits, and Leveling the Playing Field," focused on how US manufacturers can/should keep parts that are manufactured under forced labor out of their supply chains, the benefits of the de minimis rule for duty- and tax-free importation of certain goods, and various ideas for customs modernization.

Chairman Ron Wyden (D-OR) discussed his December announcement of an investigation into possible auto industry reliance on supply chains tainted by forced labor. "I asked eight major automakers about their supply chains, and how they're cleaning them up," he said. "This is a flagship American industry that employs more than 90,000 Americans and contributes over \$700 billion annually to the U.S. economy." Chairman Wyden further said that since the 2016 Trade Facilitation and Trade Enforcement Act (TFTEA), the last package of trade enforcement tools, Customs and Border Protection has faced additional challenges related to COVID-19, Fentanyl, counterfeit goods, and IP theft.

Ranking Member Mike Crapo (R-ID) said with the last comprehensive update to customs laws 30 years ago, "A smart reform, now, will not only allow us to seize new opportunities, but also to confront the rise of opportunists... The drafters of the last modernization could not possibly foresee the technological tools available to us today, or the sheer number of small businesses that now take advantage of international trade, or the benefit to consumers from widespread access to ecommerce... Modernization is imperative to counter both existing threats trying to make their way into this country, and those on the horizon." He described drugs and counterfeit goods entering the US and said contraband must be seized earlier.

### Witnesses:

- Cindy Allen, Vice President for Regulatory Affairs and Compliance, FedEx Logistics, said customs modernization should: support a government-wide decision-making, policy, and authority process that is centralized and coordinated with CBP; enable global entry for cargo; limit redelivery authority; establish timelines for government response; facilitate informal entry procedures; and codify the express delivery sector.
- Andy Meserve, Local Union President 9423, United Steelworkers, called for faster trade enforcement and raised concerns about forced labor and the environmental practices of other nations that can give their companies a competitive advantage.
- Scott Nova, Executive Director, Worker Rights Consortium, discussed labor rights violations.
- John Pickel, Senior Director, International Supply Chain Policy, National Foreign Trade Council, encouraged members to, with regard to customs modernization: balance the benefits of trade facilitation and the updating of enforcement authorities; clearly articulate the roles and responsibilities of actors throughout the import process; promote partnership between government agencies and the private sector; embrace automation to simplify the processing of cargo and promote transparency; and apply trusted trader principles to address emerging risk factors. He also discussed goals for trade facilitation.
- Brenda Smith, Global Director, Government Outreach, Expeditors International of Washington, Inc., discussed, regarding customs modernization for better trade facilitation and stronger trade

enforcement: leveraging trusted traders to manage risk; digitization and single window; supply chain resilience; and coordination of government agencies operating at the border.

During Q&A, Chairman Wyden said he was still reviewing answers from companies regarding forced labor in supply chains, there is a lot more work to do, and the Committee will be following up and looking at the entire automotive supply chain. Nova said companies need to make sure none of the supply chain inputs are coming from or related to the Uyghur region in China and corporations should know where inputs are coming from.

Senator Tom Carper (D-DE) asked about the disparate treatment for the de minimis program, which does not apply for goods imported through US-based foreign trade zones. Pickel said that US companies would benefit from the use of de minimis thresholds being applied to entries through foreign trade zones, but it must be done in a precise way that doesn't have unintended consequences.

Senator John Thune (R-SD) said he helped lead the call for the TFTEA increase in the de minimis rule threshold from \$200 to \$800 to allow more items to be imported duty- and tax-free. He noted that Cindy Allen said in her testimony that the de minimis rule streamlines trade and benefits consumers. Allen said the de minimis provision supports the e-commerce space and facilitates small and medium-sized businesses, who are allowed to transit the complex trade process in a more streamlined manner. CBP does have authority and data to undertake enforcement actions in the de minimis environment including in transit hubs, she said, and it is important to continue that process.

Allen said she would be concerned about any proposal to change the limit from \$800, which is a good limit and much higher than the average value of goods imported under the rule. Asked whether it is important to expand market access for exporters, Allen said the US is a leader in market expansion and customs modernization activities and has an opportunity to lead the world in market access and develop small and medium-sized businesses.

Senator Robert Menendez (D-NJ) said one of CBP's most important jobs is to safeguard consumers from importation of counterfeit products and asked failing to crack down on counterfeit goods is harmful to US workers. Nova said there is a broader challenge that allows goods produced illegally overseas to be imported and sold in the US, and we need a more aggressive approach to that practice.

Senator Menendez further discussed the Fair Tariff Act he introduced with Senator Bill Cassidy (R-LA) in the last Congress, which would exempt goods that are already in transit from additional tariffs and require a standardized 60-days' notice before new tariffs take effect in order to ensure the burden of tariffs falls on their intended targets and not on innocent importers.

Materials from the hearing are at <https://www.finance.senate.gov/hearings/ending-trade-that-cheats-american-workers-by-modernizing-trade-laws-and-enforcement-fighting-forced-labor-eliminating-counterfeits-and-leveling-the-playing-field>