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**United States House of Representatives Subcommittee on Trade**

**Testimony from Fred C. Ferguson, VP, Public Affairs and Communications, Vista Outdoor**

**Modernizing Customs Policies to Protect American Workers and Secure Supply Chains**

**May 25, 2023**

**9:00 a.m. ET in room 1100 of the Longworth House Office Building**

Good morning, Chairman Smith, Ranking Member Blumenauer and members of the Subcommittee. My name is Fred Ferguson and I serve as Vice President of Public Affairs and Communications for Vista Outdoor. I am grateful for the chance to appear before you today.

Vista Outdoor (NYSE: VSTO) is a leading designer, manufacturer and marketer of outdoor recreation products. Headquartered in Anoka, Minnesota; we employ more than 6,000 people across 16 states and Puerto Rico. While Vista Outdoor is not a household name, I am confident you are familiar with our 41 iconic brands, such as Bell Helmets, CamelBak, Camp Chef, Giro, Foresight Sports, Fox Racing, Simms Fishing, QuietKat e-bikes and many more.

We are a mission-driven company founded on the belief that when we do well, we can do good. This means we actively advocate for policies and participate in community and corporate efforts to expand recreational opportunities and bring more people outside.

This mindset drives our business actions: over the past three years we've invested more than \$1 billion acquiring new outdoor companies and have dedicated funding to conservation and public lands access through The Vista Outdoor Foundation. Each of our 41 brands are also committed and actively work to help the communities where they are based in a variety of ways.

**Challenging Environment**

We appreciate the Subcommittee for holding today's hearing – it could not be better timed. Despite the surge of consumer demand for outdoor gear during the COVID-19 pandemic, our industry is not immune to today's larger macroeconomic challenges. High inflation and rising interest rates are pressuring the nation's financial system and hitting low to middle-America consumers, resulting in less discretionary spending, especially for things like outdoor products. Combined with competition with foreign online sellers and distributors that enjoy a significant competitive advantage over U.S. companies in direct-to-consumer sales – the status quo is challenging on many fronts. Our company - and the entire outdoor industry for that matter - is at a critical tipping point and needs Congressional leadership to put in place the necessary tools to combat these challenges.

The Subcommittee's decision to hold this hearing today shows your commitment toward finding sensible but meaningful solutions to secure supply chains and support domestic jobs.

My testimony will focus on three critical issues that require Congressional leadership:

- (1) Providing parity to U.S. Foreign Trade Zones, or "FTZs;"
- (2) Renewal of the Generalize System of Preferences (GSP) Program; and lastly,
- (3) Updating the Competitive Needs Limit (CNL) provision within GSP.

### **Support for US FTZs**

Vista Outdoor operates within an FTZ in Rantoul, Illinois. Here we manufacture children's bicycle helmets and distribute a variety of other bicycle products, including but not limited to, adult bicycle helmets, tire pumps, safety lights and mirrors. Over the last three years, we produced over 7 million bicycle helmets in our U.S. FTZ employing over 100 manufacturing jobs.

More recently, the volume of e-commerce sales has rapidly risen as more consumers shop online, which means e-commerce is now a significant part of our overall business strategy. Originally, our FTZ in Rantoul – and the conversion of other sites into FTZs – was slotted to be a plank in this strategy, but the structure of existing trade law under Section 321 of the Tariff Act of 1930 eliminates much of the potential benefits and required us to scale back our FTZ strategy.

FTZs are not eligible for de minimis entry because of the interpretation of a single word from a statute implemented decades before the invention of the personal computer. There obviously was no explicit congressional intent to exclude FTZs from e-commerce benefits when the law was written in 1930.

Like many others in our industry, we can no longer afford to watch our competitors enjoy up to 60% in duty and tax savings by foreign online sellers or companies using 3PL's in Mexico and Canada to fulfill e-commerce orders and utilize de minimis.

We do not believe Congress intentionally meant to exclude U.S. FTZs from e-commerce benefits when the law was last updated in 2015, as they would have explicitly precluded their coverage. Which means the inequity we are facing is an unintended consequence that is actively incentivizing American companies to move e-commerce fulfillment operations to foreign countries. This is the exact opposite of supply chain security and domestic job creation.

FTZs can support CBP efforts to enforce trade laws, protect IP and promote safety. Approximately two million packages are entering the United States every day under de minimis entry. The challenge CBP faces to process this growing volume in addition to ensuring the contents of each shipment is legitimate and abides by all federal health, safety and forced labor regulations is seemingly unimaginable.

Allowing de minimis entry for products withdrawn from U.S. FTZs would help lessen CBP's burden, as U.S. FTZ operations are strictly regulated by CBP and fully under their jurisdiction, at all times. Moreover, FTZ operators must be approved by the Department of Commerce before they are able to be active. By stark contrast, CBP has no oversight or authority of the foreign warehouses where de minimis shipments currently originate.

One additional, and not widely talked about unintended consequence of the increased volume of de minimis shipments, is the declining collection of excise taxes. De minimis enables importers to skirt excise tax payments on the importation of fishing and archery equipment. This shortchanges conservation programs and disadvantages companies who play by the rules.

We urge Congress to create parity for FTZs and de minimis.

### *301 Tariffs*

Our U.S. FTZ is also harmed by the 301 tariffs.

Some of the component parts we use to build over 3 million kids bicycle helmets are subject to additional duties under the 301 tariffs, resulting in a significant increase in production costs. This defeats the primary reason we activated our U.S. FTZ, which was to correct an inverted tariff. The normal duty rate for finished helmets is zero, or DUTY-FREE. But normal duty rates for helmet components range from 2.5% -7%. Producing in an U.S. FTZ corrects this problem by waiving the duties of the materials by substantially transforming them into a new article of commerce. However, the application of Section 301 tariffs eliminates this benefit and nullifies the incentive to produce children's bicycle helmets in the U.S.

We strongly believe components, parts and finished helmets should be excluded from the 301 tariffs so that our trade policy aligns with our shared desire to promote safety for children and others who are riding their bikes.

### **Reauthorize GSP**

Congress should pass a full retroactive renewal of the Generalized System of Preferences (GSP). GSP incentivizes U.S. companies to diversify their supply chains away from China, and simultaneously boosts the economic development of developing countries that otherwise may fall under the influence or spheres of other global adversaries.

GSP expired on December 31, 2020, and Congressional inaction has cost US companies over \$2.5 billion, which translates into ~2-3x added markups for consumers at the retail level.

We urge Congress to pass a full retroactive renewal of GSP.

### **Competitive Needs Limits**

Congress should also update the Competitive Needs Limit (CNL) provision within GSP. These are artificial thresholds set under the program, which, if a certain import from a certain country surpasses these thresholds, that product is removed from the GSP program. Inflation has driven up the cost of production and triggered certain CNL thresholds for many products. The dollar threshold, that rises by only \$5 million per year, has failed to keep up with rocketing inflation, while the percentage threshold, set at 50% of total U.S. imports, penalizes countries that have unique or domestic growth products not available in sufficient volume elsewhere. Artificially low CNL thresholds cut countries off just as they are starting to build domestic industries capable of competing with China.

We urge Congress to update CNL thresholds to account for inflation and ensure that GSP countries, such as Indonesia, do not lose access to GSP.

### **Closing**

Thank you for the opportunity to participate in today's hearing. Taken together, each of the topics I discussed would create certainty and give U.S. companies confidence to invest in domestic operations, strengthen their supply chains, diversify away from China and feel confident that U.S. policy today will not fundamentally shift as the political winds change. The current environment creates uncertainty and prevents domestic firms from investing in people and new products here in the United States.

We urge the Subcommittee to bring parity to de minimis and FTZs, renew GSP, update the competitive needs limits under GSP and bring certainty and finality to the 301 tariff debate.

Thank you.

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