

April XX, 2020

The Honorable Nancy Pelosi
Speaker
United States House of Representatives
Washington, DC 20515

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Kevin McCarthy
Minority Leader
United States House of Representatives
Washington, DC 20515

The Honorable Charles Schumer
Minority Leader
United States Senate
Washington, DC 20510

Dear Speaker Pelosi, Leader McConnell, Leader McCarthy, and Leader Schumer:

The undersigned organizations appreciate the swift actions already taken by Congress and the Administration to address the COVID-19 pandemic.

AAFA is the national trade association representing apparel (including legwear), footwear and other sewn products companies, and their suppliers, which compete in the global market. Representing more than 1,000 world famous name brands, we are the trusted public policy and political voice of the apparel and footwear industry, its management and shareholders, its nearly 4 million U.S. workers, and its contribution of more than \$400 billion in annual U.S. retail sales.

The Travel Goods Association (TGA) is the national organization that represents the manufacturers and retailers of travel products. Comprising a \$31.2 billion-a-year industry, travel goods include luggage, casual bags, computer cases, backpacks, handbags and travel accessories – those items consumers use every day while traveling to work, across campus or around the world. TGA is the organizer and sponsor of The Travel Goods Show, the largest annual exhibition of travel products in the world.

In an effort to slow the spread of COVID-19, our members have been suspending/limiting operations to keep their workers and consumers safe consistent with global health guidelines and empowering or repurposing facilities, factories, and supply chains to produce and distribute items of personal protective equipment and other urgently needed medical materials. We appreciate the CARES Act stimulus measures, however there are several other opportunities to help the retail and manufacturing sector. I write today to urge you to take additional steps as Congress develops the contents of the fourth COVID-19 stimulus package.

We implore you to include the following provisions as we reopen the country and bring Americans back to work:

THE CARES ACT RECOMMENDATIONS

The CARES Act Payment Protection Program (PPP)

As we have all learned throughout this crisis, the current situation won't be quickly resolved. As such, we are concerned with PPP's 8-week loan forgiveness ceiling. As we already know, this crisis will affect our member businesses, and the U.S. economy, well beyond 8 weeks. Further, the requirement to return to full employment this summer, when many parts of the country will likely still be on some form of lockdown is unrealistic, potentially curbing the benefits of PPP. This provision should be revised accordingly.

Further, under the current rules, our association has no access to PPP benefits because we, like most other trade associations, are organized under Section 501(c)(6) of the Internal Revenue Code. Like our members, our association faces enormous economic uncertainty due to the ongoing COVID-19 crisis. Therefore, we request the extension of eligibility for the PPP to Section 501(c)(6) organizations, allowing them to maintain their employees and continue to serve as a resource for our members and the economy during these uncertain times.

The CARES Act Employee Retention Credit

The CARES Act employee retention credit has been helpful to our members, but insufficient to meaningfully help companies retain payroll through the extent of this downturn. For certain businesses, a cap of \$10,000 in eligible wages doesn't match the scope of the impact to their business where many have entirely shut down operations to comply with local orders and to keep employees safe. We request that the wage limit cap be raised from \$10,000 to \$30,000 as well as clarifying that a partial credit be allowed for employees performing partial services. The wage limit cap should also be raised for larger businesses accordingly. These changes would help companies get through this crisis with their workforce mostly intact.

The CARES Act Net Operating Loss Carryback

Another opportunity to provide companies with the liquidity they need now would be to expand the net operating loss (NOL) carryback by permitting carryback for 10 years. The NOL carryback in the CARES Act is currently 5 years. Further, we request changing ordering rules so that Global Intangible Low-Tax Income (GILTI) does not eliminate benefits of the carryback that was added by the CARES Act.

Main Street Lending Program

Due to the restrictions of the main street lending program, many mid-size companies do not qualify because they employ more than 10,000 individuals and/or earned more than \$2.5 billion in revenue in 2019. By lifting the employee cap and increasing the lending amounts, more companies will be able to take advantage of the program. This is particularly important for mid-sized retailers as they work to re-open stores and put employees back to work in what will likely be months before revenue starts flowing back into the retailer.

TRADE-RELATED RECOMMENDATIONS

Duty Deferral

While our members appreciate the recent duty deferral actions, it will not benefit many companies because certain important duties have been excluded and because it only covers imports made during March and April. To help manage this unsustainable situation so we can keep Americans employed, we recommend the extension of the program to cover imports made during May, June, and July and expand the program to defer the due dates for ALL duties and fees. Deferring these tariffs - which will ultimately be repaid - gives employers access to critical resources they can use to support payroll and pay other critical business expenses.

Tariff Relief

Many companies are now using their supply chains and factories to produce and deliver items of PPE to hospitals and patients. But, incredibly, those items still face tariffs, putting American patients, and American jobs, at risk. We urge the suspension of collection of duties - both MFN duties and Section 301 tariffs - that are paid on urgently needed objects of personal protective equipment (PPE).

Foreign Trade Zones (FTZ)

There is a high volume of product supply that has, or will be, entering the U.S. for the spring, summer and fall seasons. Because of significantly decreased demand, retailers will be unable to sell through the incoming supply in the current retail environment. E-commerce demand and, where permitted, curb-side pick-up demand are insufficient to consume the incoming supply of goods. This leaves retailers with difficult choices: either attempt to sell the goods to off-price liquidators for pennies on the dollar, donate or destroy the goods, or store those goods until the appropriate selling season next year. Storage will require temperature-controlled storage facilities for up to 12-14 months. The limited capacity at Foreign Trade Zone (FTZ) storage facilities will create a cash-flow crisis if retailers are forced to pay duties on those goods at the time of transfer to non-FTZ offsite facilities.

Allowing FTZ transfers and offsite facility FTZ treatment will allow those goods to remain in the FTZ and delay the obligation to pay duties on those goods, thereby easing cash flow concerns and providing retailers with the opportunity to salvage the goods to sell next year. We request that the stimulus package permit FTZ treatment for offsite storage and relaxation on FTZ transfer requirements for certain seasonal product.

Customs Bond Requirements

For companies that import products, Customs and Border Protection (CBP) requires the importer to have a Customs Bond. A Customs Bonds assures CBP that the importer is able to fulfill their financial responsibilities for duties, penalties and other fees. We request CBP to review the current bond requirements so that the surety can lower the collateral requirements. This would provide companies the liquidity they desperately need to pay employees.

Caribbean Basin Trade Partnership Act (CBTPA)

The Caribbean Basin Trade Partnership Act (CBTPA) will celebrate its 20th anniversary on May 20 and is set to expire on September 30, 2020. With the coronavirus crisis, continued certainty in this region is critical now more than ever. Our members have been proud to work on, support enactment of, and operate under this program during the past quarter century. Since it was enacted, the CBTPA – along with the Haitian Hemispheric Opportunity through Partnership Encouragement (HOPE) Act, and the Haiti Economic Lift Program (HELP) Act – has provided an important trade policy basis to support U.S. investment in and exports to U.S. allies in the Caribbean Basin. We request the renewal of this critical program especially during these challenging times.

OTHER RECOMMENDATIONS

Foreign Tax Credit Carryforward Extension

The economic downturn significantly impacts companies' ability to use foreign tax credits, which are normally subject to a 10-year carryforward rule. We request the rule could be expanded to a 13-year carryforward period by amending the language in Section 904(c) of the Internal Revenue Code be changed from "10 succeeding years" to "13 succeeding years" with respect to credits carried forward from tax years ending after December 31, 2009 and on or before December 31, 2011.

Business Interruption Insurance

Current business interruption coverage is triggered by a loss under the property insurance which requires direct physical damage to the business' facility or facilities such as fire, wind damage, explosion, etc. and loss of ingress or egress by civil authority is covered under business interruption but again the trigger for coverage is direct physical damage. In addition, many property policies include exclusions for loss caused by virus or bacteria with language that is or similar to: "any virus, bacterium, or other microorganism that induces or is capable of inducing physical distress, illness or disease."

The loss of business income from reduction of business due to fear of contagion or closure by civil authority is not considered direct physical damage and hence if there is not a direct virus exclusion, the lack of direct physical damage bars recovery from an insurer for most businesses suffering severe reductions or closure caused by COVID-19. We request that business interruption insurance be amended to be inclusive of coverage notwithstanding virus exclusions and lack of direct physical damage for all insureds that purchased business interruption coverage and making that coverage retroactive to the date consistent with the outbreak of the pandemic and enactment of closure orders and/or restrictions for businesses.

Inventory & Donation Tax Credit

As was said earlier, there is a high volume of product supply that has, or will be, entering the U.S. for the spring, summer and fall seasons that companies will be unable to sell through the incoming supply in the current retail environment. We request that an inventory tax credit be given for companies carrying excessive amounts of inventory due to the COVID-19 crisis without limitation on company size or sales. Further to the inventory tax credit, we request a credit for inventory that was donated to charity in the form of a product charitable donation tax credit.

PPE Liability Protection

In order to provide liability protection for manufacturers developing desperately needed PPE to support front line health care providers, we seek a broadening of the FDA's Emergency Use Authorization issued on April 18, 2020 (relating to "Face Masks") to additionally cover "Surgical Masks Intended to Provide Liquid Barrier Protection" as defined in Section E of the FDA's "*Enforcement Policy for Face Masks and Respirators During the Coronavirus Disease (COVID-19) Public Health Emergency (Revised)*" of April 2020.

Extending the FDA's EUA to cover such surgical masks, thereby allowing them to fall within the limited liability immunity protection of the PREP Act and the HHS Department "*Declaration Under the Public Readiness and Emergency Preparedness Act for Medical Countermeasures Against COVID-19*" of March 17, 2020, is vital in providing manufacturers with the support and protection necessary to distribute masks providing a substantial degree of liquid barrier protection which are greatly needed by the medical community to protect them during this emergency.

Childcare Funding

Many childcare centers have closed under stay-at-home orders and in response to decreasing enrollment as families with children are working from home or are facing unemployment. Revenue for these businesses (of all sizes) has dried up, with many childcare providers not able to meet operating expenses and furloughing or laying off teachers and staff. If childcare providers are not ready to reopen their doors when employees are asked to come back to work, millions of Americans won't be able to return to their jobs or reopen their businesses. This has been exacerbated by plans in many states to re-open businesses while keeping schools closed for the remainder of the year. This means childcare will be needed for millions of school-age children as well.

We request funding the \$50 billion plan put forth by Senators Warren and Smith to invest in our childcare system to help ensure that providers who have closed their doors and face laying off teachers and staff can be ready as a resource for parents when the time comes for them to go back to work.

Thank you again for all that you are doing during this difficult time and for considering these additional policy recommendations.

Sincerely,



Steve Lamar
President and CEO
American Apparel & Footwear Association



Michele Marini Pittenger
President and CEO
Travel Goods Association