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Filed via www.regulations.gov

December 10, 2018

Mr. Edward Gresser
Chair of the Trade Policy Staff Committee
Office of the U.S. Trade Representative
600 17th Street NW
Washington, DC 20508

Re: USTR-2018-0035; Request for Comments on Negotiating Objectives for a U.S.–EU Trade Agreement

Dear Mr. Gresser:

In accordance with *Federal Register* notices related to the above-referenced docket, the National Association of Manufacturers submits these comments regarding the negotiating objectives for a trade agreement between the United States and the European Union.

If you have any questions, please do not hesitate to contact me.

Respectfully,

Linda Dempsey

Comments of the National Association of Manufacturers on Negotiating Objectives for a U.S.–EU Trade Agreement (Docket USTR-2018-0035)

December 10, 2018

Manufacturers appreciate the opportunity to provide input on the administration's negotiations with the European Union (EU) for a U.S.–EU Trade Agreement.

The National Association of Manufacturers (NAM) is the largest manufacturing association in the United States, representing 14,000 manufacturers, small and large, in every industrial sector and in all 50 states. Manufacturing employs more than 12.8 million women and men across the country and produced a record $2.33 trillion in output to the U.S. economy through the first half of 2018.

*Manufacturing in the United States is most successful when markets at home and abroad are open and fair. Today, manufacturers in the United States export about half of U.S. value-added output ($1.35 trillion), helping to support record U.S. manufacturing production and about half of the U.S. manufacturing workforce. G*lobal economic growth over the past quarter century has lifted hundreds of millions of people around the world out of poverty, propelling almost 600 million people, mostly in Asia, into the middle class since 2000. These consumers have created record levels of demand for a wide range of advanced and high-quality consumer and durable manufactured goods produced in the United States, from personal care, medical equipment and food products that meet consumer demand to major capital and electrical equipment that build new cities and modernize infrastructure.

To continue expanding output and well-paying manufacturing jobs across the country, manufacturers in the United States need a strong and multifaceted trade policy to strengthen opportunities to reach the 95 percent of consumers outside of the United States and continue to expand U.S. manufacturing competitiveness. Such a strategy must seek to expand opportunities at home and overseas, including by the following:

- *Growing exports and overseas sales*. Over the past quarter century, manufacturers in the United States have quadrupled exports, helping to drive a similar quadrupling of U.S. manufacturing output to reach record levels. Continued expansion in exports is vital to enable the highly productive U.S. manufacturing sector to grow well-paying American jobs. Eliminating tariff and nontariff barriers, raising standards to ensure nondiscriminatory and fair treatment for U.S.-produced goods, protecting intellectual property rights and increasing transparency, fair competition and good regulatory processes are all important to help expand U.S. exports overseas.

- *Expanding access to fairly traded imports and inputs to improve U.S. manufacturing competitiveness*. Manufacturers in the United States have long supported open markets at home and around the world that allow all players to access imports in a fair and competitive manner to drive innovation, productivity and stronger manufacturing in ways that are critical to boost U.S. manufacturing competitiveness.

- *Improving access and protections for inbound and outbound investments.* Inbound and outbound investments in manufacturing are also important drivers of growth in the U.S. manufacturing sector, with both forms of investment supporting millions of manufacturing jobs and increased U.S. exports, capital investment and research and development in the United States.

- *Tackling the wide variety of market-distorting trade barriers in foreign markets that undermine fair competition.* To achieve these expansions, manufacturers also need continued work to eliminate the many forms of trade distortions, from subsidies and outright discrimination against manufacturers in the United States, U.S. goods and investments to other forms of nontariff barriers and market-distorting practices.[1]

Market-opening, high-standard and enforceable trade agreements with important markets like the European Union have long been a critical part of manufacturers' strategy to achieve these goals. U.S.–EU cooperation, furthermore, has the potential to set global standards that address market-distorting trade barriers in third markets. Manufacturers, therefore, look forward to a productive U.S.–EU negotiation to expand trade and investment opportunities and address market-distorting trade barriers.

I. Opportunities to Bolster the U.S.–EU Commercial Relationship

Manufacturers in the United States welcome opportunities to expand the commercial relationship with the European Union, including through the negotiation of a U.S.–EU Trade Agreement. The 28 EU countries are collectively the second-largest economy after the United States and have a population more than all but two countries, China and India. A stronger, more open and competitive U.S.–EU commercial relationship will expand opportunities for the growth of manufacturing and jobs in the United States.

The United States and the European Union have the world's largest commercial relationship, accounting for one-third of the world's total trade and nearly half of global economic output. Given their comparably sized economies and high standards of living, the United States and the European Union engage in substantial trade and investment, with more than $638 billion in two-way trade in manufactured goods and accumulated cross-border investment in manufacturing of more than $1.3 trillion.

The European Union is the United States' second-largest manufactured goods trading partner overall. U.S.-manufactured goods exports to the European Union in 2017 equaled $244 billion, with substantial exports of transportation equipment, chemicals, computer and electronic equipment and machinery. The European Union is the second-largest export market for U.S.-manufactured goods after Canada.

U.S. imports of manufactured goods from the European Union totaled $394 billion in 2017, with high levels of imports of chemicals, transportation equipment, machinery and computer and electronic equipment. The European Union is the second-largest supplier of manufactured goods imports into the United States, after China.

Notably, the European Union is the largest source of inward manufacturing investment into the United States on a historical cost basis. The European Union's accumulated manufacturing investment stocks reached more than $1 trillion in 2017, supporting more than one million

[1] More information on these issues can be found in the following NAM submissions: National Association of Manufacturers, **Comments on Administration Report on Significant Trade Deficits and Request to Appear at Public Hearing** (May 10, 2017), accessed at http://documents.nam.org/IEA/NAM_Submission_on_Trade_Deficit_Review.pdf; National Association of Manufacturers, **Submission for the 2019 National Trade Estimate Report on Foreign Trade Barriers** (October 30, 2018), accessed at http://documents.nam.org/IEA/NAM_NTE_Comments_2018_FINAL.pdf.

manufacturing jobs.[2] EU investment in U.S. manufacturing has grown substantially over the past several decades, with major investments in both physical capital and research and development.

While the United States and the European Union share a robust commercial relationship, manufacturers in the United States have long supported efforts to expand and improve that relationship. Key challenges manufacturers face in the European Union include, but are not limited to, the following:

- *Discriminatory standards, technical regulations, testing procedures and conformity assessment requirements that act as barriers to U.S. exports and sales.* Many of these problematic regulations are based on nonscientific, quasi-scientific or even political factors; are not implemented through fully transparent procedures; lack technical justification; or result in implementation burdens that are not proportionate to intended consumer or public welfare benefits. Such regulatory approaches are problematic, not only in the European Union itself but also in third countries. The European Union actively exports these approaches, impeding, thereby, access by manufacturers in the United States, not only to EU member states but also other countries. These include the following:

    - Unnecessarily restrictive, non-science-based regulatory approaches and certification challenges that impact manufacturers, including the widespread regulatory use of the "precautionary principle" to ban substances based on possible but unproven risk that has a major impact on not only producers of these substances but also downstream users in a broad array of manufacturing sectors. These approaches, including those related to Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), Restriction of Hazardous Substances (RoHS), Waste Electrical and Electronic Equipment (WEEE), work on the Circular Economy, maximum residue levels (MRLs) and other emerging rules, impact and disadvantage a wide range of manufacturers in the United States by blocking them from exporting many highly competitive American products to the European Union.

    - A *wide range of non-science-based regulatory restrictions and certification challenges that directly limit market access for many types of U.S.-manufactured goods.*

- *EU regulators' undermining and refusal to accept globally recognized international standards developed in the United States that increases compliance costs, lowers U.S. productivity and limits U.S. access into EU markets*, including in the following areas:

    - U.S. private-sector organizations have developed globally recognized international standards in line with the needs of the free market, yet EU regulators limit the definitions of "international standards" that must be considered in drafting regulations only to those created by a specific set of international organizations (such as the International Organization for Standardization (ISO), International Electrotechnical Commission (IEC) and International Telecommunication Union (ITU)) instead of following the full World Trade Organization definition of an international standard under its Agreement on Technical Barriers to Trade. These challenges effectively reduce market access for U.S. products unless they undergo additional testing, at an additional expense, according to EU standards.

    - Discrimination against U.S. standards-setting organizations, and the international standards they create, through the essential requirements component of the

[2] Bureau of Economic Analysis, U.S. Commerce Department, Foreign Direct Investment in the United States, accessed at https://apps.bea.gov/iTable/index_MNC.cfm.

European Union's "New Legislative Framework," which favors European standards organizations and companies and limits opportunities for the use of U.S. standards.

  - Environmental and safety regulatory standards for the automotive industry that diverge from U.S. standards, undermining the competitiveness of U.S. automotive exports to the European Union.

  - The lack of capacity within the EU regulatory system to implement fully, and in a nondiscriminatory manner, various regulations that could result in the withdrawal from the EU market of U.S.-manufactured equipment from the United States.

- *The use of geographic indications that undermine the ability of manufacturers in the United States and other countries to protect existing product trademarks and result in unfair treatment for companies that make products with generic terms.*

- *Limitations on the movement of cross-border data and information and their storage in ways that impede manufacturers' ability to move data across borders for the efficient operation of their businesses.*

- *Policies and practices that fail to reflect the costs and value of innovation fully, including regulatory approvals and inconsistent pricing and reimbursement policies that differ widely across member states.*

- *Intellectual property challenges and specific weaknesses in patent- and copyright-related areas.*

- *The European Union's de minimis threshold for low-value shipments (currently about $200), which impedes access for manufacturers in the United States, particularly small and medium-sized manufacturers.*

- *The maintenance of tariffs and other nontariff barriers on manufactured and agricultural goods imports into the European Union.*

- *EU customs processing measures, which diverge from U.S. processes with respect to trusted trader requirements, clearance procedures that can delay the release of goods upon arrival in the European Union and required data elements for importers and exporters.*

As the United States and the European Union look to initiate these new negotiations formally, manufacturers look forward to working with the U.S. government to ensure these negotiations move quickly to address the unlevel playing field created by agreements with other countries, and focus on achieving a more open and expanded U.S.–EU trade and investment relationship that tackles market-distorting trade practices and other commercial challenges through strong, clear and enforceable outcomes.

II. Conclusion

Manufacturers welcome the administration's focus on improving global trade relationships with the EU and other countries and look forward to working closely with the Office of the U.S. Trade Representative and other executive branch agencies to improve the U.S.–EU commercial relationship.