Linda Dempsey

Vice President
International Economic Affairs

June 12, 2017 *Filed via www.regulations.gov*

Mr. Edward Gresser
Chair of the Trade Policy Staff Committee
United States Trade Representative
600 17th St., NW
Washington, D.C. 20508

Re: USTR-2017-0006; Comments on Negotiating Objectives Regarding Modernization of North American Free Trade Agreement and Request to Appear at Public Hearing

Dear Mr. Gresser:

In accordance with the *Federal Register* notice regarding the above-captioned docket, the National Association of Manufacturers submits these comments regarding negotiating objectives and priorities regarding the modernization of the North American Free Trade Agreement (NAFTA).

I also request the opportunity to appear at the public hearing on June 27, 2017. A summary of that testimony is also attached.

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

Respectfully,

Linda Dempsey

NATIONAL ASSOCIATION OF
Manufacturers

Comments of the National Association of Manufacturers
on Negotiating Objectives Regarding Modernization of the
North American Free Trade Agreement with Canada and Mexico
June 12, 2017

The National Association of Manufacturers (NAM) is the largest manufacturing association in the United States, representing over 14,000 manufacturers small and large in every industrial sector and in all 50 states. Manufacturing employs more than 12 million women and men across the country, contributing more than $2.17 trillion to the U.S. economy annually. If U.S. manufacturing were a separate country, it would be the ninth-largest economy in the world. More than 90 percent of NAM members are small and medium-sized businesses.

The NAM welcomes the opportunity to provide input on the administration's negotiations with Canada and Mexico to modernize the North American Free Trade Agreement (NAFTA). The NAM shares the administration's overall goals for this negotiation, as outlined in its May 18 notification letter to Congress, to "support higher paying jobs in the United States and to grow the U.S. economy by improving U.S. opportunities under NAFTA." The NAM also agrees that a modernized NAFTA must be consistent with the substantive Trade Promotion Authority (TPA) negotiating outcomes detailed in section 102 of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015.[1]

For manufacturers throughout the United States, the North American[2] commercial market is the most important market in the world. Over 60 percent of U.S. manufacturing output in 2016 ($1.36 trillion) was sold in the United States, Canada and Mexico. Canada and Mexico purchased one-third of all U.S. manufactured goods exports in 2016, more than the next ten U.S. trading partners combined.

The strong and deep commercial relationship has grown with partnerships that manufacturers in the United States have with businesses in Mexico and Canada, which have enabled U.S. manufacturing to be more competitive globally than if those partnerships did not exist. U.S. manufacturing output has nearly doubled since NAFTA was negotiated and U.S. manufactured goods exports to Canada and Mexico alone support the jobs of more than two million men and women in the United States.

Most U.S. manufacturing sectors (36 out of 42) count Canada or Mexico as their top foreign purchasers, and Canada or Mexico are also the first or second largest export market for manufacturers in 46 U.S. states.

Yet, NAFTA was negotiated and implemented before individuals could hold access to the internet in their hands, before farmers could see crop yields by looking at the dashboard on their tractors, and before major technological and energy innovations helped change what and how the United States manufactures here.

As such, the NAM welcomes the opportunity to review the operation of the NAFTA and to work to improve this 23-year old agreement. In doing so, it is critical that outcomes are ones that will sustain and grow higher-paying American jobs and grow U.S. manufacturing production, exports

[1] Pub. L. 114-26, June 29, 2015.
[2] For purposes of this submission, North America will refer only to Canada, Mexico and the United States unless stated otherwise.

and competitiveness. To be successful, a renegotiated NAFTA must also be fully consistent with the substantive TPA trade negotiating objectives contained in the Bipartisan Congressional Trade Priorities and Accountability Act of 2015. At the same time, it is vital to ensure that any renegotiation does not set back U.S. manufacturing or manufacturing jobs. For example, changes and additions that would increase red tape and complexity, substitute government decision-making for free market-based decisions or raise taxes, tariffs, merchandise processing or other fees or other cost barriers in North America will undermine, rather than incentivize, manufacturing in the United States and North America more broadly.

This submission is divided into two parts. The first section reviews in depth the existing U.S. trade and commercial relationship with Canada and Mexico in the context of the U.S. manufacturing economy and the NAFTA. The second section identifies and provides supporting information on key provisions that manufacturers have identified to improve and modernize the NAFTA. In particular, the NAM welcomes work to modernize and improve the NAFTA through outcomes that will:

1. Fully Open Canadian and Mexico Markets so Manufacturers Can Sell More Made-in-the-USA Goods and Grow American Jobs

2. Reduce Border Delays and Unnecessary Red Tape to Accelerate Sales, Cut Small Business Costs and Mitigate Security Risks

3. Improve North American Rules and Processes to Stop Trade Cheating

4. Raise Standards to U.S. Levels to Ensure Transparent, Science-Based Regulatory Practices that Promote Fairness and Non-Discrimination and Reduce Burdens

5. Incorporate New Data, E-Commerce and Related Provisions to Address 21st Century Technology Barriers

6. Raise Standards to U.S. Levels and Modernize Enforcement to Protect U.S. Innovation and Intellectual Property from Theft and Mistreatment Abroad

7. Raise Investment Standards to U.S. Levels and Modernize Enforcement to Protect U.S. Property from Theft and Mistreatment Abroad

8. Raise Standards to U.S. Levels to Prevent Anti-Competitive Actions Overseas, including by State-Owned and State-Favored Enterprises

9. Raise Standards to U.S. Levels to Ensure Transparency and Strong Anti-Corruption Rules

10. Modernize Dispute Settlement Procedures and Agreement Review Mechanisms

I. U.S. Manufacturing and the North American Commercial Environment Pre- and Post-NAFTA

The North American commercial market is the most important market for manufacturers in the United States and has helped foster the growth of U.S. manufacturing output to record levels over the last several decades. Below is a review of economic and manufacturing trends in the United States, Canada and Mexico since the NAFTA was concluded, as well as an analysis of trade and investment trends during that period.

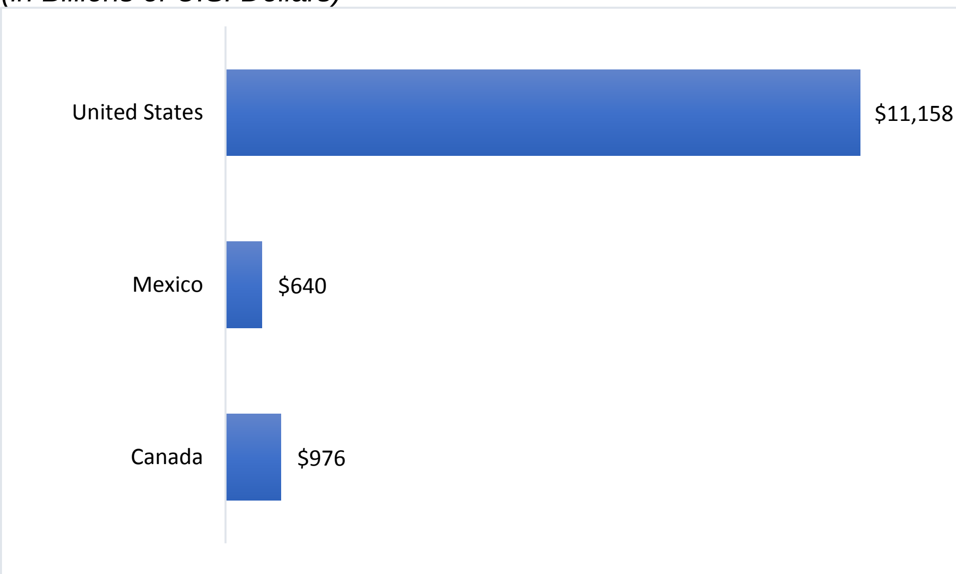
A. U.S. Manufacturing and Commercial Relations with Canada and Mexico, 1993-2016

Prior to the implementation of the NAFTA on January 1, 1994, the U.S. economy and manufacturing trade and investment between Canada and Mexico was much smaller than it is today. As well, manufacturers produced far less in the United States and faced much higher tariffs in Mexico and enjoyed far less property protections than manufacturers in the United States face today.

1. The U.S. Economy Has More than Doubled since 1993, as Canada and Mexico Grew as Well

The United States has grown its economy substantially over the last 23 years, more than doubling Gross Domestic Product (GDP) since the NAFTA was put into place, as shown in Figure 1.

Figure 1. Gross Domestic Product Growth in North America, 1993 to 2015
(in Billions of U.S. Dollars)



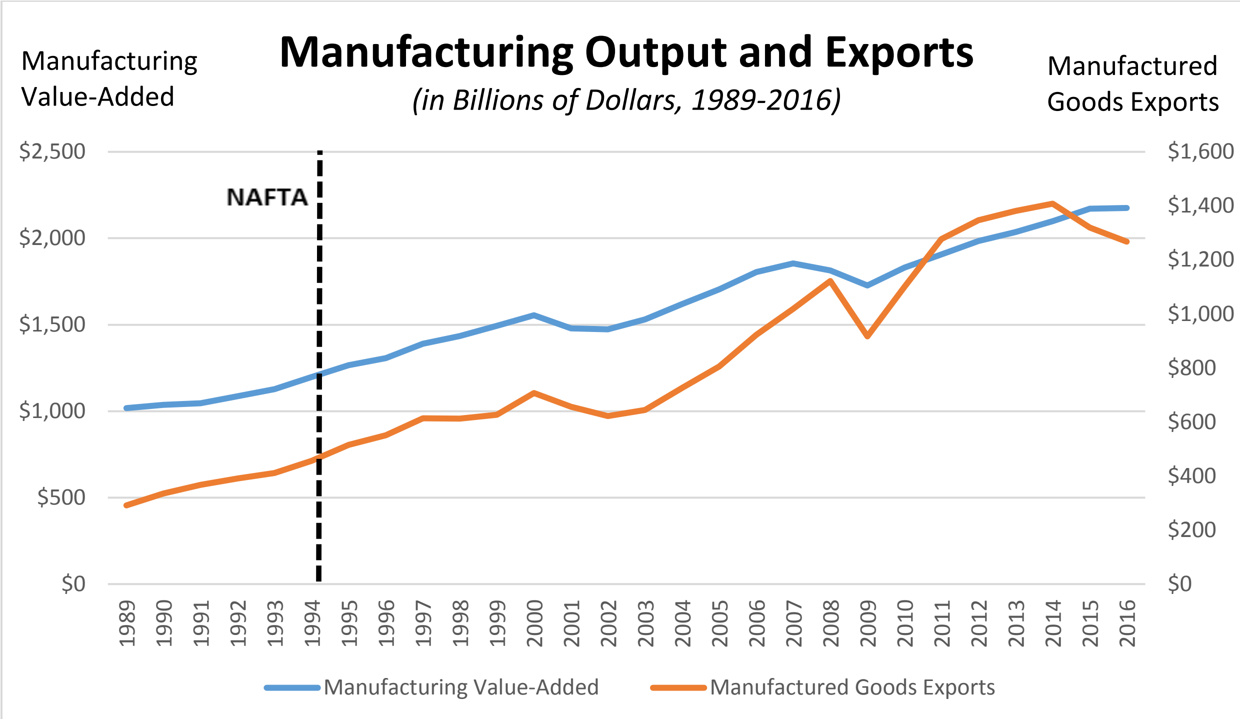
Source: *The World Bank*

Canada and Mexico also grew their much smaller economies over the same time period. The combined GDP of Canada ($1.6 trillion) and Mexico ($1.1 trillion) was about one-seventh the size of U.S. GDP ($18.0 trillion) in 2015.

2. Manufacturers Are Producing More than Ever Before in the United States

More than two decades since the NAFTA was implemented, U.S. value-added manufacturing hit a record-high of $2.18 trillion in 2016, nearly double its level of $1.13 trillion in 1993, as shown in Figure 2. That growth has been fueled in significant part by the more than tripling of U.S. manufactured goods exports to $1.27 trillion in 2016 compared to $411 billion in 1993 (the year prior to entry into force of the NAFTA), also shown in Figure 2. As discussed below, U.S. manufactured exports to Canada and Mexico represent about one-third of current U.S. exports and played a major role in U.S. export growth.

Figure 2: Manufacturing Output and Exports, U.S. $ Billions, 1989-2016



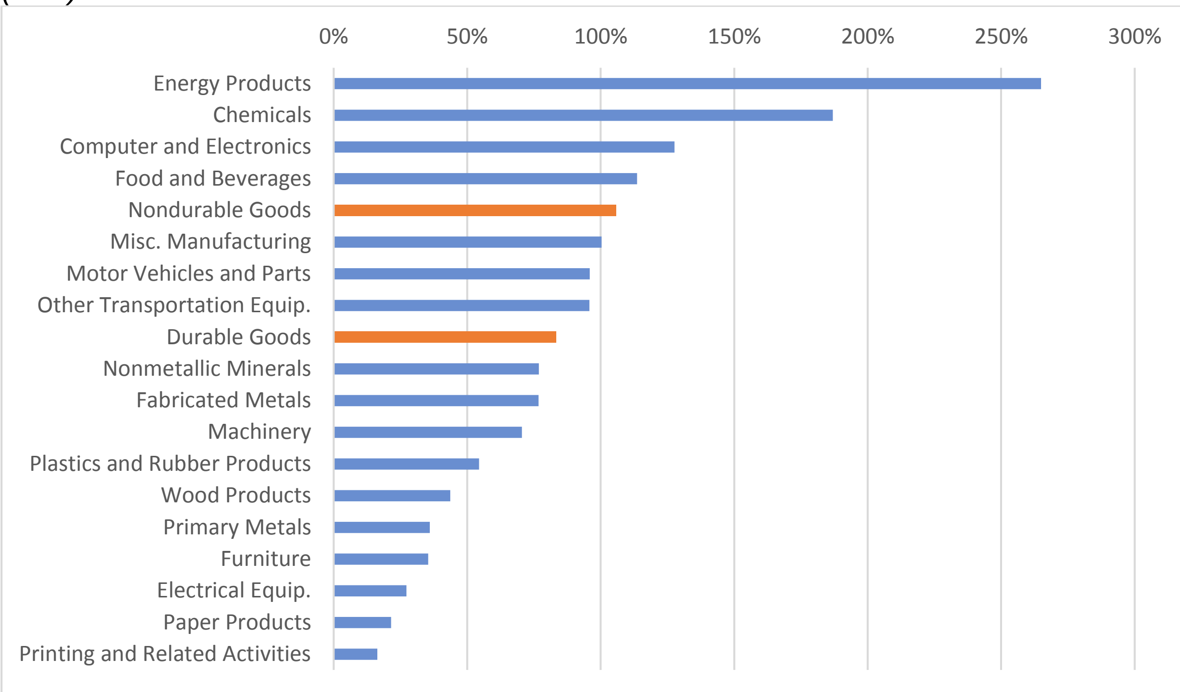
Sources: *Bureau of Economic Analysis, U.S. Commerce Department (2015 data), United Nations Database (for output data before 1997), World Trade Organization (for export data before 2002)*

Manufacturing in Canada and Mexico has also grown during this period, but represents much smaller levels of production. In the case of Mexico, for example, value-added manufacturing output more than doubled from $86.3 billion in 1993 to $196.2 billion in 2016, but is still far below the $2.18 trillion of U.S. manufacturing value added in 2016. For Canada, value-added manufacturing output grew to $183.2 billion in 2013.[3]

Not only has the overall U.S. manufacturing sector grown substantially, so too have major U.S. manufacturing sectors, as shown in Figure 3. Eleven sectors have experienced growth of more than 50 percent since 1993 and several categories – energy products, chemicals, computers and electronics, miscellaneous manufactures and some transportation equipment – have more than doubled production.

[3] World Bank, World Development Indicators, Structure of Manufacturing, accessed at http://wdi.worldbank.org/table/4.3. Comparison data not available for Canada from the same source.

Figure 3: U.S. Manufacturing Change in Value-Added, 1993 to 2016
(in %)



Source: *U.S. Commerce Department*

3. North America Trade and Investment Grew Strongly with the Reduction of Border Barriers, Elevated Standards and Binding Dispute Settlement

Trade and investment flows between the United States, Canada and Mexico are among the largest cross-border commercial transactions in the world and are viewed by manufacturers in the United States as critical for the past and future growth of U.S. manufacturing. Trade and investment flows grew strongly after the NAFTA was implemented in 1994, with provisions that:

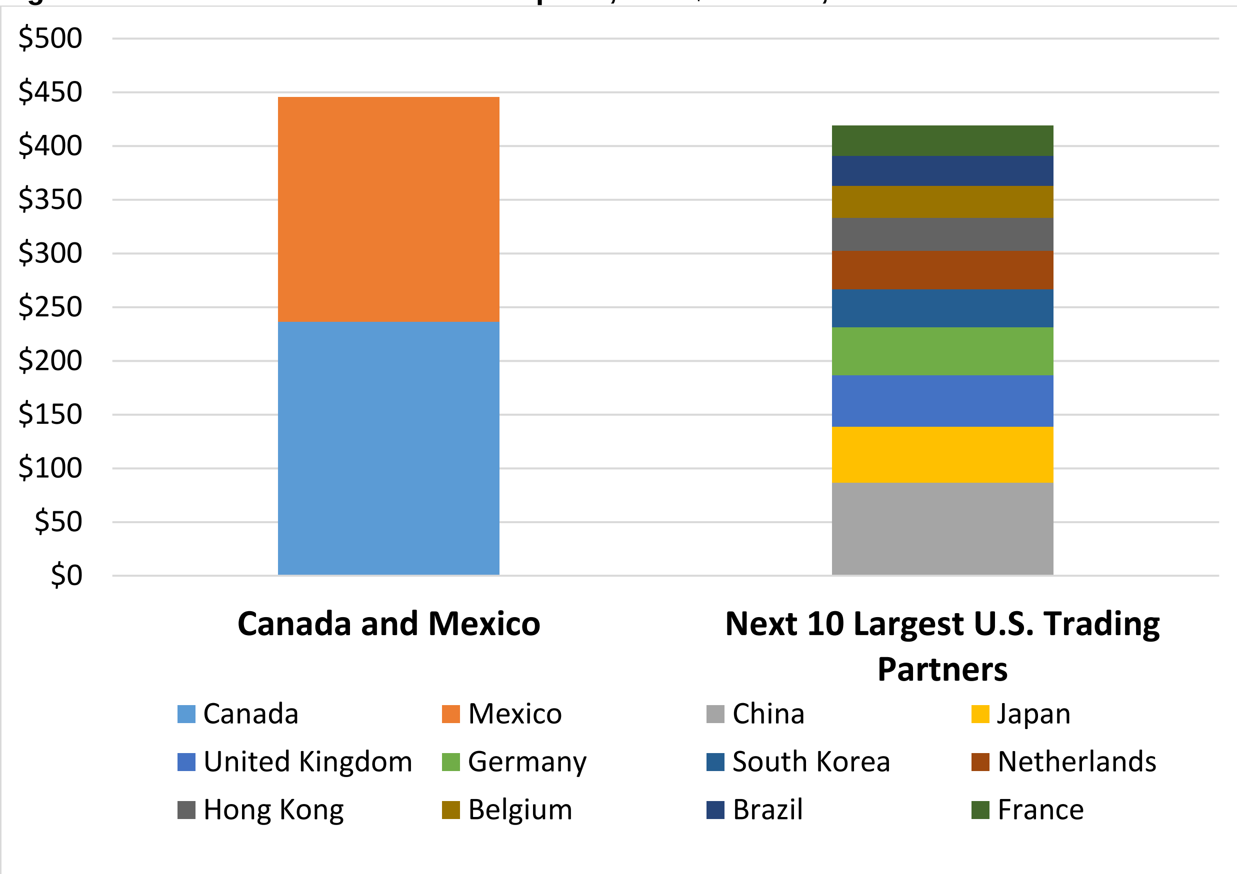
- *Eliminated all tariffs on manufactured goods among the three countries*. While Canada and the United States agreed to eliminate manufactured goods tariffs pursuant to the previously negotiated U.S.-Canada Free Trade Agreement (FTA), Mexico maintained an average 13 percent tariff on U.S., Canadian and other foreign imports into Mexico, while the United States average tariff on Mexican imports into the United States was six percent.
- *Opened up access to many key Canadian and Mexican sectors for goods, services and investment*, which had previously been closed.
- *Eliminated a host of non-tariff barriers in Mexico and in Canada that had severely restrained U.S. imports.*
- *Raised Canadian and Mexican standards for the protection of intellectual property and property invested overseas.*
- *Provided access to Canadian and Mexican government procurements.*
- *Ensured binding state-to-state and investor-state dispute settlement to ensure full implementation by both Canada and Mexico*.

Working together, these and other provisions fostered expanded U.S. commercial relations with Canada and Mexico.

a. <u>Exports</u>

U.S. manufactured goods exports have more than tripled to Canada and Mexico since 1993, increasing from $129 billion in 1993 to $446 billion in 2016. Canada and Mexico are now the top two export destinations for U.S. manufacturing goods exports. Indeed, these two nations purchase more U.S. manufactured goods than the next ten foreign countries combined.

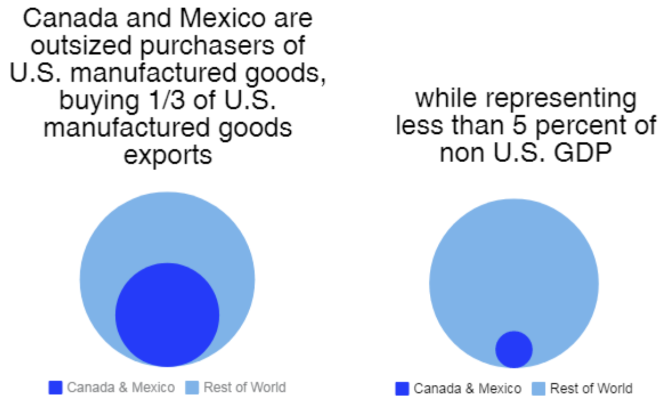
Figure 4: U.S. Manufactured Goods Exports, U.S. $ Billions, 2016



Source: *U.S. Department of Commerce*

The outsized purchases of U.S. manufactured goods exports from the United States is even more apparent given that these two countries represent less than five percent of non-U.S. GDP.

Figure 5: U.S. Manufactured Goods Exports Compared to GDP

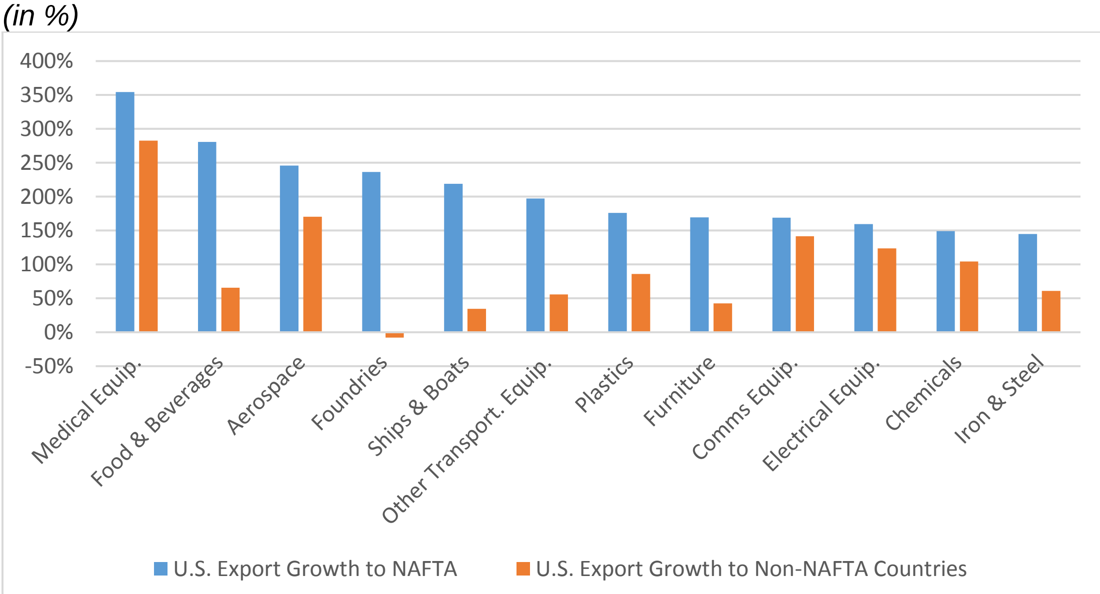


Source: *U.S. Department of Commerce and World Bank*

Notably, more than 43,000 manufacturing firms across America export to Canada and Mexico, of which 94 percent are small and medium sized firms. These manufactured goods exports support over two million manufacturing jobs, which is important to the manufacturing sector since, on average, manufacturing jobs pay $81,289 annually, including pay and benefits, higher than the average wages of $63,830 in all nonfarm industries.[4]

The outsized role that North America has played in spurring a manufacturing expansion in the United States is reflected as well in the growth of a wide range of manufacturing sectors to Canada and Mexico compared to the rest of the world. As shown in Figure 6, for example, U.S. exports of major durable and non-durable manufacturing sectors grew much more rapidly to the NAFTA countries since 1997 than to the rest of the world.

Figure 6: U.S. Manufacturing Export Growth to NAFTA vs. Rest of World, 1997 to 2016 *(in %)*



Source: *U.S. Commerce Department*

[4] National Association of Manufacturers, Top 20 Facts about Manufacturing, compiled from the Bureau of Economic Analysis and Bureau of Labor Statistics, accessed at http://www.nam.org/Newsroom/Facts-About-Manufacturing/.

As well, the vast majority of U.S. manufacturing sectors count Canada or Mexico as their top foreign destination:

36 out of 42 U.S. Manufacturing Sectors Count Canada or Mexico as Top Foreign Purchaser	
AG, Constr. & Mining Machinery	Metalworking Machinery
Aluminum	Mineral Products
Audio & Video Equipment	Motor Vehicle Bodies & Trailers
Chemicals	Motor Vehicle Parts
Communications Equipment	Motor Vehicles
Computer Equipment	Navigation, Measure, Lab & Control Instruments
Electric Lighting Equipment	Optical Instruments.; Lens; Photographic./Copy Equipment
Electrical Equip. & Components	Other Machinery
Engine, Turbine & Power Transmission Equipment	Other Transportation Equipment
Fabricated Metal Products	Paper Products
Food & Beverages	Petroleum & Coal Products
Footwear & Leather	Plastics
Foundries	Railroad Rolling Stock
Furniture	Rubber Products
Household Appliances	Semiconductors; Electronic Components
HVAC & Refrigeration Equip.	Ships & Boats
Iron & Steel	Textiles & Apparel
Magnetic & Optical Media	Wood Products

For Canada and Mexico, the United States is the top destination for their manufactured goods exports, with about 75 percent of Canada's exports and 84 percent of Mexico's exports shipped to the United States

b. <u>Imports</u>

Canada and Mexico are also large sources for U.S. manufactured goods imports. Mexico is the second largest source of U.S. manufactured goods imports ($264 billion), after China, with Canada the third largest source ($202 billion). Notably, nearly 40 percent of the value of

Mexican imports into the United States is content that originates in the United States. For Canada, that number is a robust 25 percent.[5]

In the case of North American trade, U.S., Canadian and Mexican manufacturers are, in fact, well-integrated, with about 54 percent of U.S. trade with Canada and Mexico between related parties.[6] Moreover, about 48 percent of U.S. manufactured goods imports from Canada and 40 percent of U.S. manufactured goods from Mexico were categorized as intermediate goods, parts and components in 2015.[7] Trade in these intermediate goods has helped manufacturers in the United States improve their competitiveness and grow domestic manufacturing with end products sold both in the United States and overseas. In the transportation sector (including automobiles, automobile parts, and aircraft equipment and parts), 72 percent of U.S. trade with Canada and Mexico is between related parties, demonstrating the degree to which the industry's NAFTA supply chain is integrated. For the electric equipment, appliance and components sector, the share is 64 percent, and for the computer and electronic products sector, the share is 63 percent.[8]

Canada and Mexico import more from the United States than anywhere else in the world. Indeed, 51 percent of Canada's worldwide imports and 43 percent of Mexico's worldwide imports of manufactured goods come from the United States.[9]

Free market competition, transparency and the elimination of market-distorting barriers and practices as part of the original NAFTA have been key drivers of free and fair trade in North America. As a result, unfairly traded manufactured goods imports into the U.S. market are relatively low, particularly compared to imports from other U.S. trade partners.

c. Trade Balance

U.S. manufacturing trade with Canada and Mexico has been generally balanced in recent years, with a trade deficit of $9.8 billion in 2015 and $20.9 billion in 2016, following four years of trade surpluses, as demonstrated in Figure 7. In contrast, the U.S. manufacturing trade deficit with non-NAFTA countries hit a record-high of $626.6 billion in 2016, as shown in Figure 8.

[5] Koopman, Robert, William Powers, Zhi Wang, and Shang-Jin Wei, "Give Credit where Credit is Due: Tracing Value Added in Global Production Chains," NBER Working Paper Series, Working Paper 16426 (September 2010), accessed at http://www.nber.org/papers/w16426.pdf.

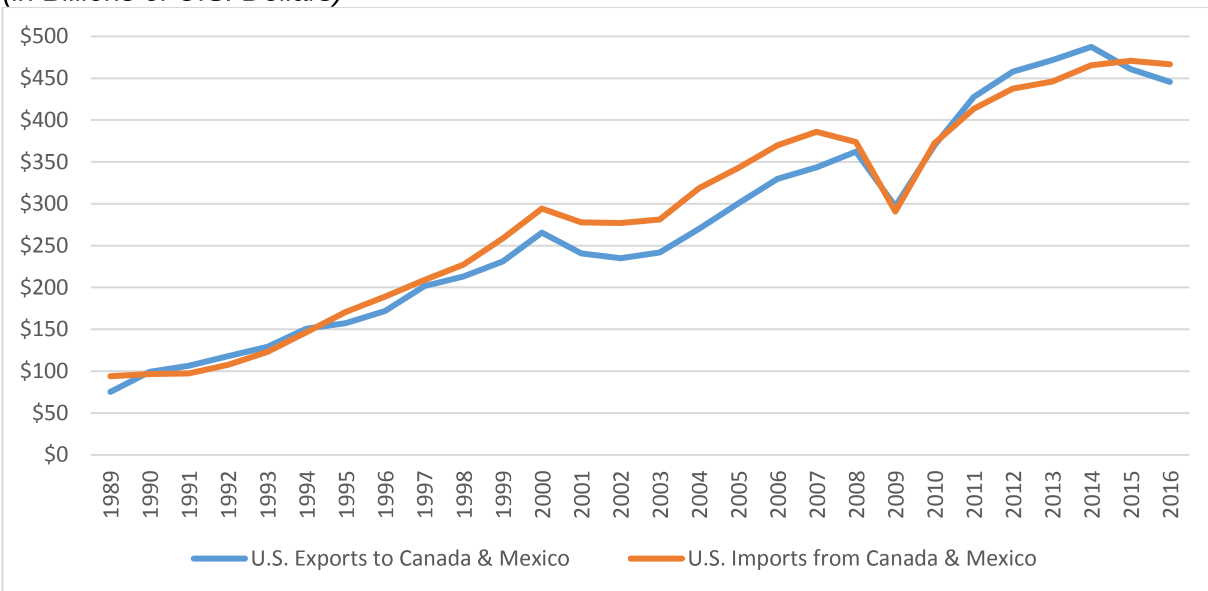
[6] NAM analysis of data reported by the U.S. Department of Commerce, accessed at https://www.census.gov/programs-surveys/trade/data/tables/relatedparty.html.

[7] Data accessed in OECD.Stat Database, Bilateral Trade in Goods by Industry and End-Use, accessed at http://www.oecd.org/trade/bilateraltradeingoodsbyindustryandend-usecategory.htm.

[8] NAM analysis of data reported by the U.S. Department of Commerce, accessed at https://www.census.gov/programs-surveys/trade/data/tables/relatedparty.html.

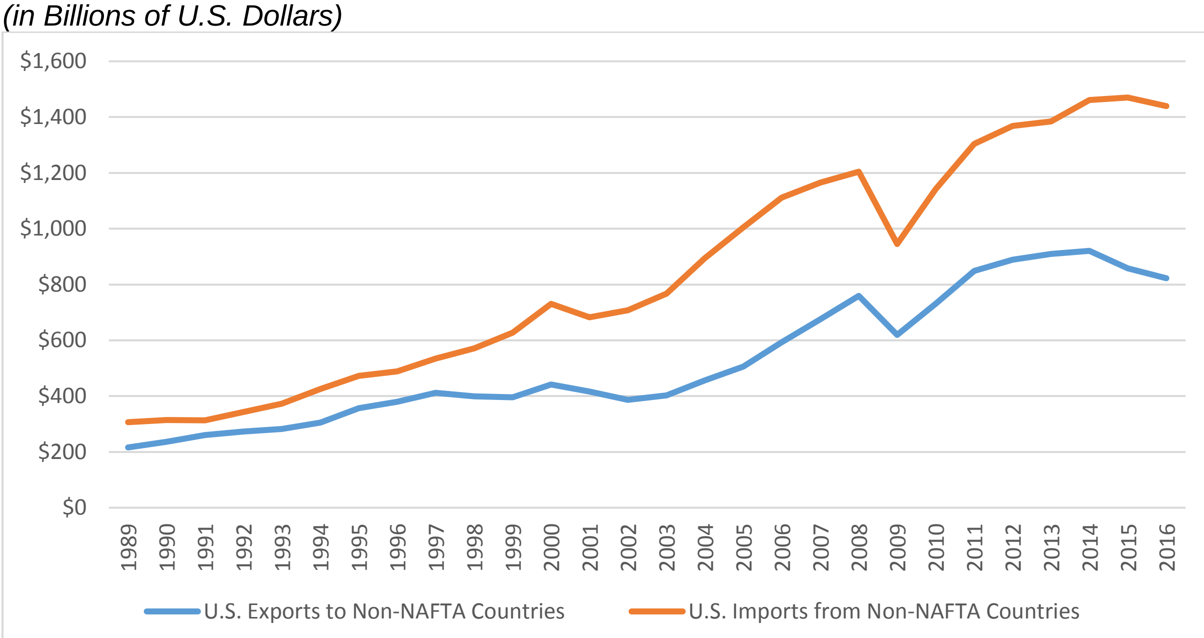
[9] NAM calculations based on United Nations Statistical Division Commodity Trade (UN COMTRADE) Data Base, 2015, accessed at http://wits.worldbank.org/.

Figure 7. U.S. Manufacturing Trade with Canada and Mexico
(in Billions of U.S. Dollars)



Source: *U.S. Commerce Department*

Figure 8. U.S. Manufacturing Trade with Non-NAFTA Countries
(in Billions of U.S. Dollars)



Source: *U.S. Commerce Department*

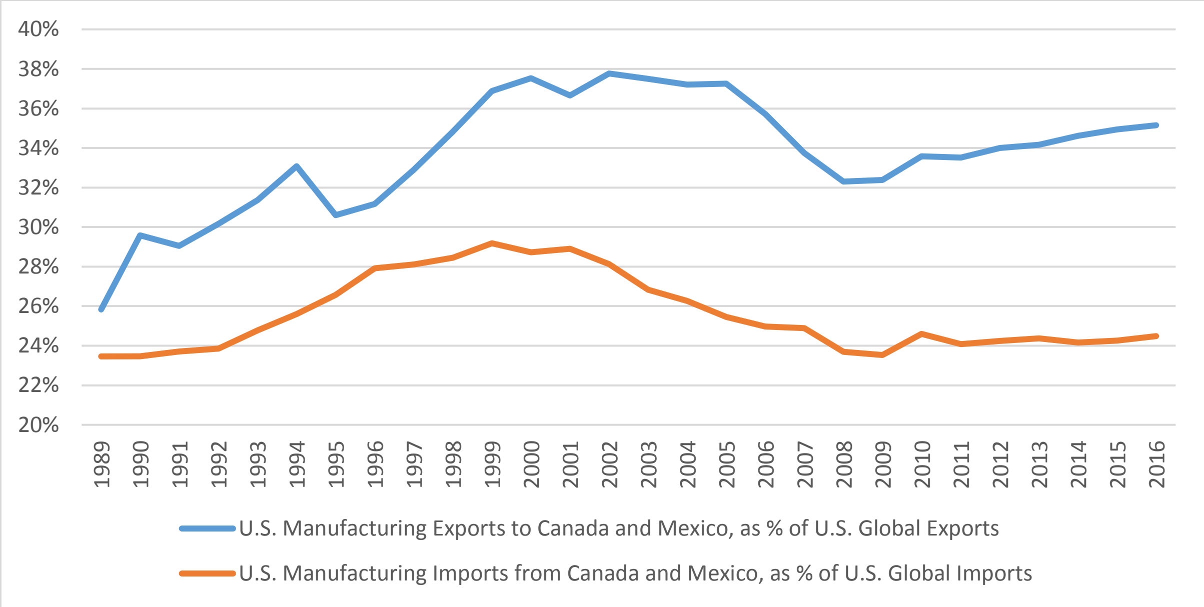
As the NAM explained in its May 10, 2017 submission and testimony in the "Administration Report on Significant Trade Deficits,"[10] the trade deficit is a complicated measure of multiple factors, including the relative strength of the U.S. economy, saving rates and other factors, including trade openness. Notably, the trade deficits expand as the U.S. economy grows and fall

[10] National Association of Manufacturers Submission to U.S. Department of Commerce and the Office of the U.S. Trade Representative, (May 10, 2017), accessed at https://www.regulations.gov/document?D=ITA-2017-0003-0155.

during periods of economic weakness. Unemployment operates in the opposite direction: as unemployment falls when the economy expands and trade deficits increase.

It is also important to consider the trade balance with Canada and Mexico in the context of broader U.S. trade trends. Notably, U.S. manufacturing exports to Canada and Mexico, as a share of U.S. manufacturing exports to all countries, have increased from 31 percent in 1993 (the year prior to entry into force of the NAFTA) to 35 percent in 2016, as shown in Figure 9. Over this same period, the U.S. manufacturing import share from Canada and Mexico decreased – from 25 to 24 percent. In short, manufacturers have been much stronger in growing exports with Canada and Mexico, while imports have actually slowed as a share of total U.S. imports.

Figure 9. U.S. Manufacturing Trade with Canada and Mexico, as a Share of U.S. Manufacturing Trade with the World



Source: *NAM analysis of data reported by the U.S. Commerce Department*

The analysis of the trade deficit between the United States, Canada and Mexico is also greatly complicated by the substantial extent of trade in intermediate goods and value-added trade. Consider that the largest two overseas markets for steel manufacturers in the United States are Canada and Mexico and that the United States has a steel trade surplus with Mexico. That steel is then counted as a Mexican product when it is incorporated in automobile parts and final vehicles and other products that are imported back into the United States.

d. <u>Investment</u>

Total U.S. cross-border manufacturing investment into Canada and Mexico more than doubled to $141.7 billion in 2015, compared with $65.9 billion in 1999. Canada is the largest destination for U.S. manufacturing (with $109 billion in accumulated manufacturing investment in 2015) and Mexico is the sixth largest destination for U.S. manufacturing investment (with $34 billion in accumulated manufacturing investment in 2015).

Canadian and Mexican manufacturing investment into the United States also more than doubled since 1999, growing to $82 billion in 2015 from $30.7 billion in 1999. Notably, Canada is the eighth largest foreign investor in U.S. manufacturing, investing $60.5 billion in accumulated investment in 2015, having more than doubled from $29.4 billion in 1999. Mexico is the eleventh largest foreign investor in U.S. manufacturing, investing $21.6 billion in accumulated investment (2015), nearly 20 times its investment of $1.3 billion in 1999.

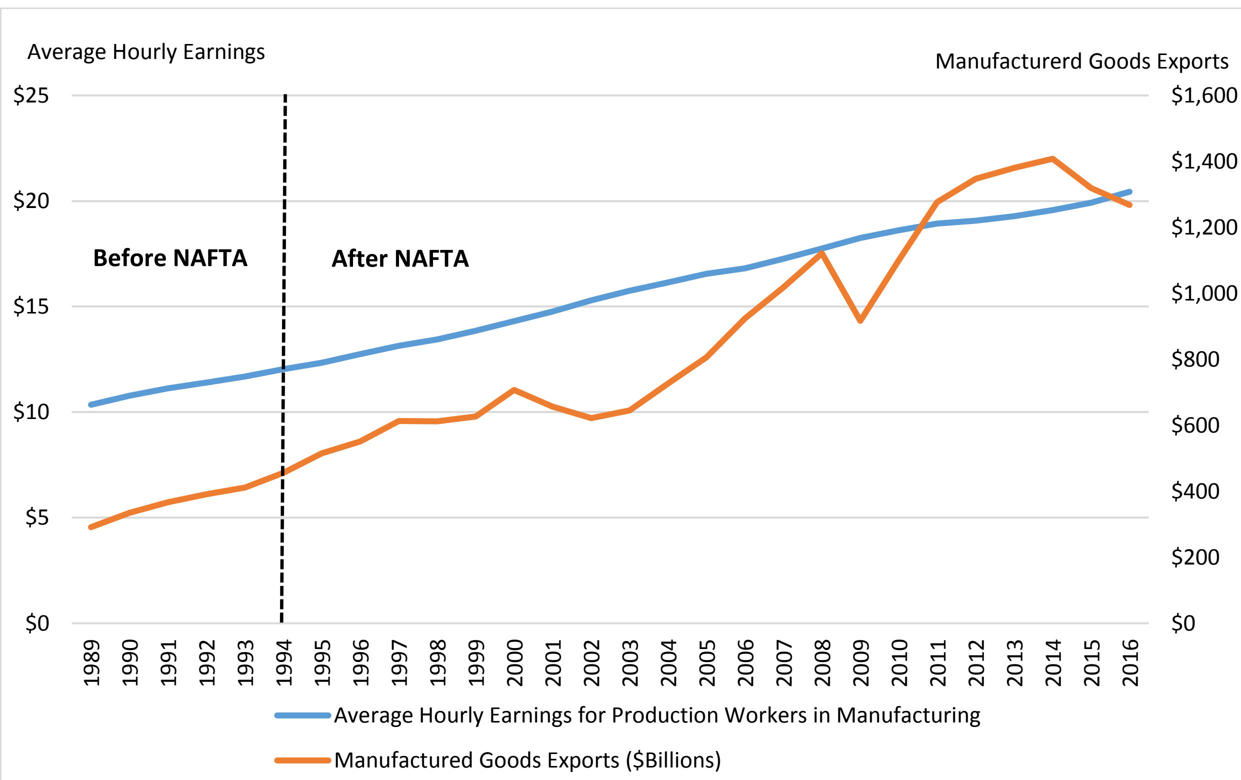
B. Ongoing Transition of U.S. Manufacturing Employment

In the four years after the NAFTA entered into force, U.S. manufacturers added more than 800,000 jobs, according to the Bureau of Labor Statistics. Similarly, the U.S. unemployment rate was markedly lower in the years immediately after the NAFTA came into force (averaging 5.1 percent in 1994-2007) compared to the pre-NAFTA period (averaging 7.1 percent in 1982-1993).

The immediate post-NAFTA growth in manufacturing employment had followed the pre-NAFTA period (1980-1993) when the United States lost nearly two million manufacturing jobs. It wasn't until the recessions in 2001-2002 and 2007-2009 that there was another significant downturn in U.S. manufacturing jobs.

The growth of a modern U.S. manufacturing sector, in part due to the NAFTA and U.S. export growth, has also had an important positive impact on wages and skills in the U.S. manufacturing workforce. As shown in Figure 10, average hourly manufacturing wages have increased pre-and post-NAFTA. Notably, more than 2 million manufacturing workers at over 43,000 manufacturing firms across America currently depend directly on exports to Canada and Mexico for their jobs and many more workers depend on the trade and investment relationship.

Figure 10: Average Hourly Earnings and Manufactured Goods Exports, 1989-2016



Source: *Bureau of Labor Statistics, U.S. Department of Commerce*

To ensure that manufacturing in the United States continues to grow, it is critical that manufacturers identify talent to fill job gaps. Over the next decade, nearly three and a half million manufacturing jobs likely need to be filled and the skills gap is expected to result in two million of those jobs going unfilled, according to a study released by the NAM and Deloitte.[11] NAM members have been leaders in training workers for these in-demand professions, but more work needs to be done.

C. Partnerships and Production and Supply Chains in North America

Trade and investment relationships in North America are among the largest and most vibrant in the world. The United States, Canada and Mexico do not simply trade with each other. Manufacturers in the three countries build things together and rely on each other's markets to support millions of jobs and to design, build and compete in global markets. There is a substantial amount of trade in intermediate goods, value-added trade and trade among related parties in North America that has promoted North American manufacturing trade flows that are largely characterized by free market competition, with relatively low barriers. Unlike other parts of the world, unfair trade practices and market-distorting government actions in manufactured products are relatively low.

The production of goods and services in North America and globally is increasingly taking place in partnerships with related and non-related parties in each other's markets with imports and exports – in addition to research and development, marketing and financial support distributed between countries. These global changes have contributed to the growth of an increasingly innovative, high-value modern manufacturing sector in the United States, creating higher paying and higher skilled jobs.

In many cases, U.S. imports from Mexico and Canada are of intermediate goods that are used to produce products that the U.S. then exports back to Mexico and Canada, or to the rest of the world. Moreover, many finished goods imported into the United States from Mexico and Canada incorporate significant U.S. content, materials, parts, design, and value and support jobs and manufacturing within the United States. Partnerships with producers overseas avoid unnecessary costs and delays, promoting U.S. manufacturing competitiveness, which is vital in an already fiercely competitive global economy where cents on the dollar can determine a final sale.

In light of the exceptionally strong integration and partnerships in North American manufacturing, it is also important to recognize the level of dependency that manufacturers in the United States and their workers have on the continuation of these partnerships. Excluding or raising costs of imports into the United States from Canada and Mexico will in many sectors and cases undermine the ability of manufacturers in the United States to remain competitive producers. Rather than creating more balance in the trading relationship, raising costs or barriers on such U.S. imports will result in drops in U.S. exports, as well as domestic production, to the detriment of U.S. manufacturing output and jobs.

D. Manufacturing and the Services and Agriculture Sectors

While this analysis focuses largely on manufacturing trade, it is important to note that there is a complementarity between the manufacturing, services and agricultural sectors of the U.S. economy, both domestically and internationally. Services are a critical mechanism to enable manufacturers to finance, deliver and distribute products sold across the country and the world and to communicate and advance information technology processes. Many other services, such as conformity assessment and professional services, also help boost the manufacturing

[11] Deloitte and Manufacturing Institute, "The Skills Gap in U.S. Manufacturing 2015 and Beyond," accessed at http://www.themanufacturinginstitute.org/~/media/827DBC76533942679A15EF7067A704CD.ashx.

economy. Agriculture provides some of the key raw inputs to manufactured food, beverage and other production. Finally, both the services and agriculture sectors are important purchasers of U.S. manufactured goods as well, so when services and agriculture grow, so too does manufacturing production. The growth in services and agricultural exports to Canada and Mexico has had an important and significant impact on the ability of manufacturers in the United States to increase sales to those sectors domestically.

II. Key Provisions to Improve, Update and Modernize the NAFTA

The original NAFTA was the first modern and regional trade and investment agreement in the world, which laid the groundwork for other important bilateral and multilateral agreements. For manufacturers in the United States, the NAFTA was critical in establishing the ground rules for a progressive reduction and final elimination of tariffs among the three countries, as well as core rules to improve standards to promote fairer competition, all subject to binding dispute settlement provisions. In particular, the NAFTA eliminated tariffs for qualified manufacturing products that meet a comprehensive set of rules of origin that were drafted specifically for each industrial sector. It also incorporated intellectual property and investment protection provisions that are vital for the protection of U.S. property overseas and provided important new access to manufacturers across multiple U.S. industries to foreign government procurement markets in ways that have helped grow U.S. manufactured goods exports. Binding state-to-state and investor-state dispute settlement provisions were innovative additions to the NAFTA that are viewed as necessary to make sure that commitments are fully enforced. At its most basic, the NAFTA joins the three major North American countries in one agreement with one set of rules that has helped promote partnership and reduce red tape for manufacturers seeking to access both the Canadian and Mexican markets.

While these and other core features and provisions of the NAFTA have been critical to the growth of U.S. manufacturing output, exports and improved U.S. global competitiveness, the administration's proposed renegotiation of the NAFTA offers an important opportunity to:

- Examine the implementation of existing obligations;
- Address barriers that were not eliminated;
- Update and improve standards to address current business practices and level the playing field; and
- Modernize the NAFTA to incorporate issues not even considered decades ago.

Laid out below are the key issues that manufacturers have identified that would, if incorporated, provide improved market access, raise standards to U.S. levels and create a more fair and level playing field for manufacturers in the United States, which will promote the growth of U.S. manufacturing output, exports and competitiveness and sustain and grow good-paying American manufacturing jobs. To be successful, a renegotiated NAFTA must be fully consistent with the substantive TPA trade negotiating objectives contained in the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, which seek the ambitious elimination of foreign barriers and market-distorting practices and raising of foreign countries’ standards to U.S. levels in important areas, including transparency, regulatory practices, and the protection of intellectual property and property invested overseas. In particular, the NAM welcomes work to modernize and improve the NAFTA through outcomes that will:

1. Fully Open Canadian and Mexico Markets so Manufacturers Can Sell More Made-in-the-USA Goods and Grow American Jobs

2. Reduce Border Delays and Unnecessary Red Tape to Accelerate Sales, Cut Small Business Costs and Mitigate Security Risks

3. Improve North American Rules and Processes to Stop Trade Cheating

4. Raise Standards to U.S. Levels to Ensure Transparent, Science-Based Regulatory Practices that Promote Fairness and Non-Discrimination and Reduce Burdens

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9. Raise Standards to U.S. Levels to Ensure Transparency and Strong Rules on Anti-Corruption

10. Modernize Dispute Settlement Procedures and Agreement Review Mechanisms

At the same time, it is vital to ensure that any renegotiation does not set back U.S. manufacturing or manufacturing jobs. For example, changes and additions that would increase red tape and complexity, substitute government decision-making for free market-based decisions or raise taxes, tariffs, merchandise processing or other fees or other cost barriers in North America will undermine, rather than incentivize, manufacturing in the United States and North America more broadly. Similarly reducing or eliminating U.S. access to government procurements in Mexico will impede the ability of manufacturers in the United States to continue to sell a wide variety of manufactured goods to the Mexican government. As well, changes that would reduce goods or services access to the United States or provisions that would impede the use of Mexico's Industrial, Manufacturing, Maquiladora, and Service Export (IMMEX) program will have negative impacts on manufacturers in the United States and their ability to sustain and grow jobs. While Mexico has made substantial improvements to its customs processes in recent years, much more that can be done to reduce the administrative burden on eligible participants. As noted above, the deep integration and commercial partnerships between manufacturers in the United States and those in Canada and Mexico have improved U.S. manufacturing output, competitiveness and exports. Undermining those partnerships or slowing down trade will not lead to positive results for manufacturing production, exports or competitiveness or the ability of manufacturers in the United States to sustain, let alone grow, American manufacturing jobs. The most effective way to update, improve and modernize the NAFTA is to focus on the types of issues identified below that limit U.S. access, add unnecessary cost or other burdens or undermine U.S. competitiveness by weaker rules.

A. Fully Open Canadian and Mexico Markets so Manufacturers Can Sell More Made-in-the-USA Goods and Grow American Jobs

Manufacturers in the United States will become more successful when markets are open, tariff and trade barriers are eliminated and outdated paperwork requirements are seamless and digitized. With most consumers and purchasing power outside the United States, it is a top priority for manufacturers to open foreign markets and level the playing field globally. Tariffs and non-tariff barriers, however, block the ability to export more made-in-the-USA products in global markets, which in turn limits manufacturers' ability to sustain and grow American manufacturing jobs. It is critical, therefore, for the U.S. manufacturing sector to eliminate border barriers in order to create concrete new market access for U.S. manufactured goods exports, including through the elimination of tariffs and non-tariff barriers on the full range of manufactured goods. Non-tariff barriers that hinder manufactured goods trade include restrictions on remanufactured goods exports, import and export licensing restrictions, and localization barriers including domestic content requirements for commercial sales, subsidies conditioned on the use of domestic goods and services, and measures that favor or require domestic innovation, including local manufacturing and local R&D investment requirements.

<u>NAFTA's Market Access Outcomes Can Be Improved to Open Markets Fully</u>

The NAFTA largely eliminated all tariffs on manufactured goods trade between the three countries for products found to qualify under the NAFTA rules of origin. Although the NAFTA largely opened the Canadian and Mexican markets by eliminating tariff barriers and many non-tariff barriers, there are notable exceptions. For example, remanufactured products may be treated as used products that continue to face tariffs. As well, Canada maintains market protections in certain agriculture and food manufacturing sectors, such as low duty-free quota levels for dairy imports from the United States and out-of-quota rates that are as high as 300 percent, and Mexico imposes regulations that restrict express delivery services trade. Mexico has not joined the World Trade Organization (WTO) Information Technology Agreement (ITA), to which both the United States and Canada are members, which eliminates information technology tariffs on imports from all countries. Concerns remain across the manufacturing sector as well about complicated rules of origin, red tape and out-of-date procedures for verifying compliance with rules of origin that place unnecessary burdens on manufacturers in the United States, which effectively reduce the value of the NAFTA duty-free provisions.

Manufacturers are seeking, therefore, a renegotiated NAFTA that results in concrete new market access that increases U.S. manufactured goods exports and reduces red tape and complexity. Among the key changes that would improve the current agreement for manufacturers are provisions that would:

- **Ensure free trade for remanufactured goods**, including with respect to disassembled products, national treatment and market access
- **Eliminate all remaining tariffs and non-tariff barriers on food product exports**, particularly including Canadian dairy restrictions.
- **Eliminate barriers on services that impede U.S. manufacturing goods exports**, including barriers that impede express delivery and distribution in Mexico, and lock in services openings in both Canada and Mexico.
- **Require Mexico to join the World Trade Organization Information Technology Agreement**, so that Mexico, like the United States and Canada, eliminates tariffs on covered information technology imports.
- **Consider rules of origin modernization in close consultation with industry in ways that make them more efficient, reduce red tape and incentivize usage**, to reduce paperwork burdens so that manufacturers can fully take advantage of NAFTA benefits.

B. Reduce Border Delays and Unnecessary Red Tape to Accelerate Sales, Cut Small Business Costs and Mitigate Security Risks

Manufacturers in the United States are increasingly globally engaged, working with partners domestically and overseas to innovate and create the best value products for consumers in the

United States and globally. Manufacturers in the United States provide key components and inputs in global production and supply chains, as well as using inputs from outside the United States, in ways that expand U.S. production, exports and sales, and competitiveness, which in turn are critical to support and grow jobs.

In order to boost exports around the world and to obtain needed inputs, the United States and its trading partners need a 21st century customs and border processing system that incorporates automation to eliminate unnecessary paperwork and documentation requirements and to enable validation and verification of data by government agencies in real time. Chokepoints at the border – created by confusing fees, burdensome documentation requirements, redundant security programs, inadequate infrastructure, disjointed regulations and changes to customs regulations without notice and the opportunity to comment – create uncertainty, delays and unnecessary cost burdens, which have similarly negative impacts on trade and sales as tariffs. A modernized NAFTA should result in more efficient, predictable and transparent movement of goods throughout North America and a more competitive business export platform to reach global customers. Improvements in customs operations and trade facilitation will disproportionately benefit smaller manufacturers by cutting the cost, time and complexity of selling to foreign markets.

Unnecessary delays at ports of entry between the Canada, the United States and Mexico persist despite bilateral and multilateral efforts to improve trade facilitation. Outdated rules of origin procedures add to the complexity and cost of border transactions. The United States should leverage the new WTO Trade Facilitation Agreement (TFA), which set the bar for customs processes and trade facilitation initiatives, to urge Mexico and Canada to implement additional measures that would help minimize cross-border friction and reduce costs. At the same time, effective customs enforcement measures are needed to combat illicit trafficking and to safeguard public and national security.

Border Delays Create Unnecessary Costs and Handicap Small Businesses

The production of goods and services in North America and globally is increasingly taking place in production and supply chains between countries. Imports and exports, in addition to research and development, marketing and financial support, are increasingly distributed among several countries in ways that improve the final product and its availability to consumers. These global changes have contributed to the growth of an increasingly innovative, high-value modern manufacturing sector in the United States, creating higher paying and higher skilled jobs.

Manufacturers in the United States often operate in a “just in time” production and delivery system that enables companies to manage efficiently their resources, meeting customer demands with nimble production schedules. This is particularly important with the high degree of trade in intermediate goods in North America, as described above. Any interruption to production can be an immediate burden to manufacturers and their workers. Whether the delay is caused by inadequate infrastructure or staffing, unaddressed security concerns, confusing paperwork requirements or burdensome regulations, there are huge costs for businesses and their customers when cargo is waiting to cross the border.

Small and medium-sized enterprises (SMEs) are particularly vulnerable to the costs and delays of inefficient customs procedures and supply chain disruptions. SMEs are increasingly active in the global supply chain, as both importers and exporters. In fact, SMEs accounted for 98 percent of U.S. exporters in 2015 and 97 percent of goods importers.[12] The number of SMEs that export has risen exponentially since 1992, reaching nearly 300,000 companies today. Mexico and Canada account for the top export markets for SMEs, with SMEs selling more than $75 billion of goods to Mexico and nearly $53 billion to Canada. Dealing with customs barriers and supply chain logistics requires significant upfront investments, and surveys conducted by the U.S. International Trade Commission (USITC) found customs procedures and clearance delays to be an important barrier for SMEs to doing business abroad.[13] Unfortunately, SMEs often lack the resources or experience to navigate foreign customs and other regulations.

Technological advancements and the robust growth of e-commerce platforms have created new opportunities for U.S. companies. In fact, global retail e-commerce was estimated to reach $1.915 trillion in 2016,[14] with e-commerce sales in the United States accounting for about $395 billion, which represents a 15.6% jump from 2015.[15] Facilitating the kinds of smaller shipments enabled by e-commerce, both direct to consumers and to business customers, will particularly benefit SMEs.

Build on Past Cooperation to Achieve a New Gold Standard

Despite bilateral and multilateral agreements to facilitate trade at borders and ports, including the "Beyond the Border" initiative with Canada and the U.S.–Mexico High Level Economic Dialogue, there are still gaps and inconsistencies in the North American approach to customs procedures, risk management and trade facilitation.

The World Trade Organization (WTO) achieved a milestone in 2017 when the Trade Facilitation Agreement (TFA), the first multilateral WTO agreement since 1995, entered into force. Finalized in December 2013, the agreement aims to reduce trade costs for governments and for private sector stakeholders by setting standards for transparent and efficient procedures, clear public information and communications, the elimination of as much red tape as possible, and cooperation between government agencies both internally and externally. The United States ratified the TFA in 2014 without the need for any changes to our system, and all three countries agreed to immediately adopt the provisions of the TFA.

While the TFA is an important achievement, there is an opportunity for the United States to work with partners like Canada and Mexico to set the bar even higher for trade facilitation. Improving rules for advance rulings, availability of information on import and export procedures and appeal procedures, and automation will improve trade flows and reduce costs.

Technology Innovations and Trusted Trader Programs Can Mitigate Security Risks and Maximize Efficiency

The United States and its trading partners can leverage technology to gather and utilize data, manage risk on an account basis, and streamline recordkeeping and payment requirements for

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[12] Commerce Department, "U.S. Exporting and Importing Companies, 2015," accessed at http://www.trade.gov/mas/ian/build/groups/public/@tg_ian/documents/webcontent/tg_ian_005538.pdf.
[13] "Small and Medium Sized Enterprises: U.S. and EU Export Activities, and Barriers and Opportunities Experienced by U.S. Firms," USITC Pub. 4169 (July 2010), accessed at https://www.usitc.gov/publications/332/pub4169.pdf.
[14] "Worldwide Retail Ecommerce Sales Will Reach $1.915 Trillion This Year," eMarketer (August 22, 2016), accessed at https://www.emarketer.com/Article/Worldwide-Retail-Ecommerce-Sales-Will-Reach-1915-Trillion-This-Year/1014369.
[15] U.S. Census Bureau, "Quarterly Retail E-Commerce Sales 4th Quarter 2016," accessed at https://www2.census.gov/retail/releases/historical/ecomm/16q4.pdf.

manufacturers in the United States. Such reforms can both facilitate trade and improve risk targeting and enforcement. Separating the release of goods from the payment of duties or fees and expediting customs procedures for express shipments will also alleviate border delays.

The Interagency Trade Data System (ITDS) and the Automated Commerce Environment (ACE) were designed to gather data from importers and exporters the United States as a "single window" platform and to allow the various government agencies to simplify their data requirements, creating efficiencies for the U.S. government as well as for the private sector. The deployment of ACE should eventually eliminate onerous or outdated paperwork requirements. In December 2016, the U.S. Customs and Border Protection (CBP) announced that its partner agencies had automated more than 300 paper forms as part of the ITDS initiative.[16] A modern approach to customs operations would reflect digital innovations by requiring the parties to accept submission of electronic documents, including certificates of origin and signatures.

Shifting away from a transactional approach to risk management, using technology and risk-based targeting to collect and screen data on an account basis for trusted traders, will allow the U.S. government and its partners to better understand and address security risks or violations of the law without creating roadblocks for legitimate trade. The U.S. Customs-Trade Partnership Against Terrorism (C-TPAT) was intended to give companies that implement certain security measures access to a faster customs processing. In practice, however, companies have found the screening requirements to be quite costly and the purported benefits to be minimally realized. Canada's Partners in Protection (PIP) and Customs Self-Assessment (CSA) programs, on the other hand, are based on account-based clearances that require officials to assess and inspect only a small portion of the company's total shipments. The NAFTA should address inconsistencies between those programs and Mexico's Authorized Economic Operator (AEO) program, and harmonizing the regulations and procedure associated with each and exploring enhancing mutual recognition agreements to share information on low and high risk entries and trusted traders.

<u>NAFTA Should Build on Past Cooperation and Negotiations to Increase Sales, Reduce Red Tape and Cost Burdens and Improve Security</u>

While NAFTA Chapter 5 outlines obligations on customs procedures, the United States and its trading partners have innovated their approach to trade facilitation in the past two decades. The WTO recently set a multilateral standard for transparency, reducing border compliance costs and risk management. Additional work has been done in other negotiations to improve rules of origin verifications that should be included in an updated NAFTA. A modernized NAFTA should build on past commitments and adopt new measures to facilitate trade, manage risk and ensure enforcement of rules and protections. It is also critical that existing provisions, such as the prohibitions in Chapter 3 on the application of customs user fees on originating goods, are preserved in the updated agreement. In addition, the United States should retain commitments to ensure adequate enforcement of applicable laws, including prohibitions on illicit and counterfeit products, without impeding legitimate trade.

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[16] CBP, "Reaching Major Milestones at East Coast Trade Symposium," press release, December 13, 2016, https://www.cbp.gov/newsroom/spotlights/reaching-major-milestones-east-coast-trade-symposium.

Among the key changes that would improve the current agreement for manufacturers are provisions to:

- **Update provisions to create a common system for businesses to comply with origin requirements and leverage technology to reduce outdated paperwork requirements and accelerate movement of goods** by streamlining document and recordkeeping requirements for importers and exporters, expediting express shipments and improving and harmonizing trusted trader programs.
- **Set a meaningful *de minimis* threshold for low-value shipments and align duty drawback provisions with modern trade agreements** to promote greater exports, incentivize domestic production and cut costs for small business manufacturers.
- **Align and improve trusted trader programs** to expand utility of these programs in the NAFTA context, reduce unnecessary burdens and improve security enforcement.
- **Include NAFTA mechanism to permit the duty-free importation of certain products**, including returned goods and samples.

C. Improve North American Rules and Processes to Stop Trade Cheating

Fairly conducted trade provides opportunities for growth and expansion of manufacturing in America. Unfortunately, some import competition is fueled by foreign market-distorting and discriminatory trade practices that create unfair advantages for foreign manufacturing production at the expense of manufacturers, workers and communities in the United States and North America more broadly. Manufacturers have long supported robust U.S. government action to address the underlying causes of the distortions and the full enforcement of trade rules, including antidumping and countervailing duty rules, and more recently, stronger anti-evasion enforcement processes that were enacted as part of Trade Facilitation and Trade Enforcement Act, consistent with international obligations.

<u>NAFTA Should be Modernized to Address More Effectively Third-Country Market-Distorting Practices and Unfair Trade</u>

While North America has developed into an open and free market-based economy, with relatively few market-distorting and unfair practices affecting manufactured products, manufacturers in the United States see the continued growth of these practices around the world. While utilization of existing U.S. trade laws and direct negotiations with foreign countries to eliminate such distortions have produced some results, more coordinated work among the three North American countries would be a significant boost to address foreign market-distorting practices that undermine the benefits that the NAFTA should be providing within the North American economy. When unfairly traded imports are not addressed by all three countries, the U.S. approach is less effective and trade patterns can be distorted to the detriment of manufacturing and jobs in the United States.

Manufacturers welcome opportunities to improve NAFTA in ways that results in improvements in the ability of Canada and Mexico to address foreign unfair practices and more coordinated action by the three countries to identify and address effectively third-country market-distorting practices. Among the key changes that would improve the current agreement for manufacturers are provisions to:

- **Require strong, transparent and time-limited processes to prevent evasion of trade-remedy orders**, consistent with the new processes being implemented by the United States as part of the Trade Facilitation and Trade Enforcement Act last year.

- **Improve collaboration and information sharing on trade remedy investigations to improve the ability of North America to combat third-country government market-distorting and unfair trade practices** from undermining manufacturing in North America.
- **Develop mechanisms to monitor and promote coordinated action to address foreign government market-distorting practices,** that is being undertaken to gain an unfair competitive advantage and undermines manufacturing and jobs in the United States.

D. Raise Standards to U.S. Levels to Ensure Transparent, Science-Based Regulatory Practices that Promote Fairness and Non-Discrimination and Reduce Burdens

To grow exports and access foreign markets, manufacturers in the United States not only need to be able to get their products across borders, they need to get them on foreign shelves for sale. Foreign technical standards, sanitary and phytosanitary requirements, regulations and testing procedures set the "ground rules" for new products seeking to enter the market and for existing products competing for market share. Foreign governments are increasingly limiting access to their markets by developing a growing array of unique foreign, discriminatory, burdensome, non-science/risk-based and non-transparent standards, regulations and conformity assessment procedures. Such standards represent growing obstacles to U.S. exports and substantially increase costs in ways that undermine manufacturers' global competitiveness. While NAFTA included provisions to address discriminatory and non-transparent technical standards and sanitary and phytosanitary measures, subsequent trade agreements have modernized and strengthened disciplines to restrict the inappropriate use of such standards, regulations and testing requirements.

FOREIGN TECHNICAL STANDARDS ARE ON THE RISE

Notifications of new and revised technical regulations in foreign countries more than doubled between 2005 and 2015.

Approximately 92 percent of U.S. exports globally may face foreign technical regulations – barriers that have a substantive impact on manufacturers in the United States, particularly small- and medium-sized manufacturers and their ability to support and grow jobs.

Sources: World Trade Organization, 23rd Annual Review of the Implementation and Operation of the TBT Agreement; Jeff Okun-Kozlowicki, Standards and Regulations: Measuring the Link of Goods Trade (June 2016).

The Growth of Technical Barriers Depresses U.S. Exports to Foreign Markets

Unique foreign, discriminatory, burdensome, non-science/risk-based and non-transparent standards, regulations and conformity assessment procedures represent growing obstacles to U.S. exports overseas. Moreover, such standards increase significantly the cost of U.S. manufacturing exports to countries around the world, making U.S. manufactured goods less competitive. In some countries, such standards are developed largely to limit access to imports and protect local players. In other cases, the proliferation of problematic standards stems from proactive efforts by individual countries or regional organizations (such as the European Union (EU)) to promote their own standards at the exclusion of international standards developed by organizations based in the United States, putting products manufactured in the United States at a competitive disadvantage.

Manufacturers in the United States can compete most successfully when standards are developed through a truly voluntary and market-driven process – one in which multiple standards compete on the merits, and where companies have the freedom to implement whatever standards best suit their needs and those of their customers. Conversely, government-mandated standards developed without broad industry input risk undermining innovation by "freezing" technology development in lieu of new and better standards and solutions.

<u>NAFTA's Regulatory Provisions Need Updates and Improvements to Promote Transparent, Non-Discriminatory, Science-Based Regulatory Practices and Standards</u>

While the NAFTA includes chapters on Technical Barriers to Trade (TBT) (Chapter 9) and Sanitary and Phytosanitary (SPS) Measures (Chapter 7), these chapters have not been updated since the agreement entered into force in 1994, although the growth of burdensome standards is on the rise. Among the key changes that would improve the current agreement for manufacturers are provisions that would:

- **Strengthen provisions that recognize U.S. international standards approach** and make standards procedural commitments subject to dispute resolution.
- **Strengthen the TBT chapter's horizontal protections, incorporate agreed-upon sector annexes and develop processes to promote cooperation and create new sector-specific annexes** to reduce barriers to U.S. exports and decrease costs.
- **Create a regulatory coherence chapter with binding commitments** to ensure that all parties adopt good regulatory practices.
- **Update SPS chapters to promote science-based regulatory practices, time-limited dispute resolution and facilitate U.S. exports** in a manner that is consistent with common fundamental tenets of law that provide for cost-benefit analysis.

E. Incorporate New Data, E-Commerce and Related Provisions to Address 21st Century Technology Barriers

Manufacturers in the United States are increasingly innovating and making technological advances that depend on digital data and information flows, global communication networks and cross-border flows of data and information to grow and manage their businesses, from creating new sales opportunities through internet storefronts and tracking sales and sourcing to managing a wide variety of human relations functions. Yet, countries around the world are increasingly imposing measures that restrict the movement of data and information across national borders, cybersecurity rules that discriminate against foreign manufacturers, rules that do not manage effectively or efficiently the availability of spectrum, and foreign government localization barriers that seek to require the use of local information technology infrastructure.[17] These restrictions undermine the global competitiveness of manufacturers in the United States

[17] National Association of Manufacturers, Pre-Hearing Statement of Linda M. Dempsey to the U.S. International Trade Commission for Investigation No. 332-561 on Global Digital Trade I: Market Opportunities and Key Foreign Trade Restrictions (March 28, 2017), accessed at http://documents.nam.org/IEA/NAM_Pre-Hearing_Statement_on_Global_Digital_Trade_FINAL.pdf?_ga=1.7790069.672044988.1462147946.

and their ability to sustain and grow manufacturing through reaching new customers outside our borders.

Data transfer and localization issues are particularly important to small manufacturers that utilize information and communication technology (ICT) that enable their businesses to acquire information, market their products and communicate and serve foreign customers much faster and in a more cost-effective manner than ever before. As a result of such technologies, small businesses are better able to expand sales overseas, creating new demand that is served by growing manufacturing and jobs domestically.[18]

The use of ICT has enabled manufacturers to compete more successfully in a tough global economy by lowering costs, improving efficiencies and growing exports. To be able to grow America's share of the $11 trillion global market in traded manufactured goods, manufacturers must be confident in their ability to use digital platforms and to move data and information securely across borders. In order to use internet storefronts, take advantage of cloud computing services and gather data from customers around the world, they must be able to store and move data without discriminatory, unnecessary or burdensome restrictions. Manufacturers also need access to fair and non-discriminatory telecommunications networks to conduct business around the world.

<u>New Digital Trade Disciplines should be added to NAFTA</u>

The NAFTA includes a telecommunications chapter, Chapter 13, which provides for access to and use of public telecommunications transport networks and services and standards-related measures relating to the attachment of equipment to public telecommunications transport networks and services. However, the NAFTA does not include an electronic commerce chapter, and lacks provisions that address the myriad of digital trade and electronic commerce innovations that have emerged since negotiations were concluded in 1993. Among the key changes that would improve the current agreement for manufacturers are provisions to:

- **Promote cross-border data flows** to ensure the ability of manufacturers to move and store data without being impeded by discriminatory, burdensome and unnecessary restrictions.
- **Prohibit localization of information technology infrastructure** and include new provisions to promote non-discriminatory access to telecommunications networks.
- **Prohibit the imposition of customs duties on the telecommunications value of electronic transmissions or on data being transmitted** and treat digital products without discrimination.

[18] A 2013 Boston Consulting Group report states that information and communications technology has a powerful impact on the growth and success of small and medium sized enterprises (SMEs) from the United States and Germany to China, India and Brazil. The report found that SMEs that were technology leaders created twice as many jobs and increased revenue 15 percent in the past three years than those SMEs that lagged behind in the adoption of new technologies. This report shows that SMEs across these five economies could create $770 billion in new revenue and add about 6.2 million new jobs with the increased adoption of new technologies. See David C. Michael, Neeraj Aggarwal, Derek Kennedy, John Wenstrup, Michael Rüßmann, Ruba Borno, Julia Chen, and Julio Bezerra, Lessons on Technology and Growth from Small-Business Leaders: Ahead of the Curve, Boston Consulting Group (October 5, 2013), accessed at https://www.bcgperspectives.com/content/articles/technology_software_globalization_ahead_curve_lessons_technology_growth_small_business_leaders/.

- **Prohibit transfer or access to source code of software as a condition for sale** to prevent foreign government and foreign competitor access to confidential business information.

F. Raise Standards to U.S. Levels and Modernize Enforcement to Protect U.S. Innovation and Intellectual Property from Theft and Mistreatment Abroad

Innovation and intellectual property (IP) are the lifeblood of the U.S. economy, and the foundation for a competitive manufacturing base that can compete successfully around the world. Vigorous protection of IP rights at home and abroad against those who would steal U.S. innovative ideas and products is a necessity. Such protection will spur further innovation by reassuring manufacturers that their inventions will be safe, enabling them to build new industries, solve domestic and global challenges and sustain and create high-paying jobs. These protections are particularly important for SMEs, for whom the cost and complexity of protecting their IP rights around the world can be very high relative to their annual sales. Strong IP protection and enforcement are also vital to protect American consumers and ensure that the products they purchase and use are safe and effective.[19]

From the Constitution onward, the United States has long worked to build a strong domestic legal framework to ensure that manufacturers in the United States enjoy strong protection and enforcement for their hard-won inventions. The United States has also led the world in seeking stronger global rules and standards so that foreign competitors do not steal U.S. innovation and IP to the detriment of U.S. manufacturing and jobs. This framework includes not only the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), but also specific, enforceable provisions to boost IP protection in U.S. free trade agreements (FTAs), such as the NAFTA. Yet global IP protection has advanced considerably in the more than 20 years since NAFTA was negotiated and finalized. The NAFTA needs revisions to ensure that all parties join a common set of international IP treaties, protect inventors and their IP from unfair government actions, address issues related to patentability, patent protection, and patent terms, streamline trademark procedures and strengthen core trademark protections, secure strong protection for trade secrets and confidential

IP IS CRITICAL TO THE U.S. ECONOMY

IP and Innovative Industries Create Jobs, Boost GDP

- The value of IP adds $6.6 trillion to the U.S. economy – the size of the combined economies of California, Texas, New York and Florida (2015).
- Innovative industries account for more than half of all U.S. merchandise exports (2014).
- Innovative industries support more than 45 million U.S. jobs (2016).

Cost of IP Theft is Huge

- IP theft drains up to $600 billion from the U.S. economy per year (2017).
- Counterfeit and pirated goods seized by CBP were worth more than $1.38 billion (2016).

Sources: *Antonipillai, Justin and Michelle K. Lee, Intellectual Property and the U.S. Economy: 2016 Update/ Sept. 2016; Commission on the Theft of American Intellectual Property, The Theft of American Intellectual Property: Reassessments of the Challenge and United States Policy (Washington: National Bureau of Asian Research), Feb. 2017; CBP, Intellectual Property Rights Seizure Statistics: Fiscal Year 2016 Jan. 2017.*

19 White House Office of the Intellectual Property Enforcement Coordinator, "Supporting Innovation,

business information, and close gaps in Canada and Mexico's IP enforcement systems.

IP Drives U.S. Leadership in Manufacturing and is Critical for U.S. Manufacturing Growth and High-Paying Jobs

The value of IP to the U.S. economy and manufacturers in the United States is clear: the added value of patents, trademarks, copyrights and trade secrets to the U.S. economy is rising faster than ever before, reaching $6.6 trillion in 2015, or nearly 40 percent of total U.S. gross domestic product (GDP). That value continues to grow with nearly 2.8 percent of U.S. GDP devoted to R&D, a figure that makes up more than a quarter of all R&D conducted globally.[20]

Such R&D contributes directly to the U.S. economy: a recent study showed that in countries such as the United States, a one percent increase in R&D expenditures can grow the economy by an average of 0.61 percent.[21] IP and other intangible assets account for a significant majority of the total market value of key manufacturing industries from information and communications technology to food and beverages, from pharmaceuticals to automobiles, from personal care products to advanced machinery.[22]

Strong IP protection provides powerful incentives for solutions to global challenges, allowing, for example, greater energy efficiency and the delivery of next-generation lifesaving medications. Where IP rights are protected and enforced, innovators thrive, creating and sustaining jobs and promoting international trade. According to a 2016 report by the Department of Commerce and U.S. Patent and Trademark Office, innovative industries accounted for more than 50 percent of all U.S. merchandise exports in 2014, and directly or indirectly support more than 45 million jobs across the country.[23]

Improving IP Protection, Strengthening IP Rules Fundamental to a NAFTA Improvement

The theft and misappropriation of IP rights poses a substantial threat to manufacturers large and small in every sector and in every U.S. state. American innovation is a major target for both foreign competitors who want to steal it, and for foreign governments who want to capture it to build competitive industries. A February 2017 report by the Commission on the Theft of Intellectual Property found that stolen ideas, brands and inventions drain up to $600 billion from the U.S. economy per year.[24] This includes the theft of patented technology and trade secrets, counterfeiting of branded manufactured goods, and piracy of industrial software that is important for manufacturers. In fiscal year 2016, U.S. Customs and Border Protection seized counterfeit

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Creativity & Enterprise: Charting a Path Ahead: U.S. Joint Strategic Plan on Intellectual Property Enforcement, FY 2017-2019," December 2016.

[20] Industrial Research Institute and Research Technology Management, "2016 Global R&D Funding Forecast," R&D Magazine, Winter 2016.

[21] Şahin, Begüm Erdil, "The Relationship Between R&D Expenditures and Economic Growth: Panel Data Analysis 1990-2013," Paper 207, Presented at Ekonomik Yaklasim Association's EY International Congress on Economics II (EYC2015), November 5-6, 2015, Ankara, Turkey.

[22] As recently as 2009, *i*ntellectual property and other intangible assets accounted for more than 90 percent of the total market value of most of these sectors. See Hassett, Kevin A. and Robert J. Shapiro, "What Ideas are Worth: The Value of Intellectual Capital and Intangible Assets in the American Economy," September 2011.

[23] Antonipillai, Justin and Michelle K. Lee, "Intellectual Property and the U.S. Economy: 2016 Update," September 2016.

[24] Commission on the Theft of American Intellectual Property, "The Theft of American Intellectual Property: Reassessments of the Challenge and United States Policy," (Washington: National Bureau of Asian Research), February 2017.

and pirated goods worth more than $1.38 billion, with major categories of counterfeit products including medicines, consumer electronics, toys, computer accessories, automotive products and other goods that could pose serious health and safety risks to American consumers.[25]

NAFTA's Provisions on Intellectual Property Need Updates and Improvements to Protect Hard-Won U.S. Innovative Outcomes

At the time it was originally drafted, NAFTA's Chapter 17 represented a significant step forward, setting a template for international agreements covering IP and paving the way for the 1994 TRIPS Agreement. Given global advancements in innovation, the economy, and trading rules since then, however, the NAFTA's intellectual property rules are out-of-date and have a significant number of gaps that expose innovation created by manufacturers in the United States to potential theft, misappropriation, or expropriation.

Manufacturers are, therefore, seeking high-standard, ambitious IP outcomes from a revised NAFTA that protect the hard-won innovation of manufacturers throughout their production processes, including patents, trademarks, trade secrets, and copyrights. The adoption of such outcomes can ensure that the agreement benefits manufacturers and the high-paying jobs they support. Among the key changes that would improve the current agreement for manufacturers are provisions to:

- **Modernize core IP protections in all three countries** by ensuring that Canada and Mexico join and implement a series of U.S.-supported international IP treaties streamlining IP administration in all three countries and fully implement their existing obligations.
- **Boost American innovation** by patent eligibility across all areas of technology, addressing issues related to inconsistent criteria for granting and revoking patents, instituting patent term restoration for unreasonable delays, strengthening regulatory data protection in line with U.S. standards.
- **Protect manufacturers' brands and trademarks** by strengthening and streamlining trademark registration and opposition procedures, increasing protection for well-known trademarks, defending a trademark-based approach to geographical indications (GIs), and fully protecting trademarks against inappropriate regulatory activities.
- **Securing strong protection for trade secrets and confidential business information** by instituting criminal penalties for trade secret infringement and by setting and implementing clear, strong protections for data collected by regulators and penalties for illegal public disclosure.
- **Strengthen efforts to tackle counterfeiting and piracy and other forms of infringement**, including by requiring Canada and Mexico to enforce consistently and rigorously their IP laws by granting Customs officials the authority and the mandate to act against counterfeit products and ensuring broad access to enforcement tools and remedies, including criminal penalties, early and effective resolution of patent disputes and measure to tackle online IP infringement.

G. Raise Investment Standards to U.S. Levels and Modernize Enforcement to Protect U.S. Property from Theft and Mistreatment Abroad

The strong protection of private property is fundamental to the United States, its economy and legal system. U.S. protection of all forms of private property, including real property, contract rights and IP, encourages investment and innovation, market-based economic transactions and

[25] Office of Trade, U.S. Customs and Border Protection, "Intellectual Property Rights Seizure Statistics: Fiscal Year 2016," January 2017.

economic growth and prosperity. Ensuring equivalent levels of access and protection in foreign markets against foreign government theft, discriminatory or other unfair actions is also vital to promote continued manufacturing growth and higher paying jobs in the United States. While the NAFTA contains some basic property and investment protections and the core investor-state dispute settlement (ISDS) enforcement mechanism, it leaves U.S. property and investment at significantly weaker levels of access and protection than already available to foreign investors in the United States. Furthermore, it is critical to ensure that the ISDS enforcement mechanism is available for breaches of all core violations and contract rights and that provisions prohibiting foreign government localization mandates be expanded to prohibit foreign government requirements to transfer technology and proprietary information.

Inward and Outbound Investment Is Important for U.S. Manufacturing Growth and Higher-Paying Jobs

The United States is the largest recipient of FDI in the world, with $348 billion in inbound FDI flows in 2015 based on data compiled by the Bureau of Economic Analysis, of which $243 billion was in manufacturing. On a historical-cost basis, accumulated inbound U.S. investment reached $3.13 trillion in 2015, of which $1.22 trillion was in manufacturing. Such investment directly supports U.S.-based manufacturing facilities and activities and 2.4 million manufacturing jobs across the country. Such inward investment also drives U.S. exports, accounting for nearly 19 percent (or $248 billion) in manufactured goods exports in 2015.[26]

The United States is also the largest outbound investor, with approximately $5 trillion in accumulated stocks overseas as of 2015, of which 13 percent (or $661 billion) was in manufacturing. Of that, 69 percent was invested in Europe, Canada and Japan and other high-income countries. U.S. investors overseas provide important contributions to the U.S. economy and manufacturing in particular. These companies:

- Export 47 percent of all U.S. manufactured goods sold overseas ($660 billion in 2014);
- Produce approximately $1.363 trillion or nearly 65 percent of all U.S. private-sector value-added manufacturing output in 2014;
- Expend nearly $269 billion on research and development (R&D) in the United States in 2014, of which 68 percent (or $183 billion) was spent by manufacturers;

U.S. INVESTMENT WITH CANADA AND MEXICO

Inward Investment

- Canada is the eighth largest foreign investor in U.S. manufacturing, investing $60.5 billion in accumulated investment in 2015.
- Mexico is the eleventh largest foreign investor in U.S. manufacturing, investing $21.6 billion in accumulated investment in 2015.

Outbound Investment

- Accumulated U.S. foreign manufacturing investment in Canada equaled $109.9 billion in 2015, making Canada the largest destination for U.S. manufacturing investment overseas.
- Accumulated U.S. foreign manufacturing investment in Mexico equaled $34 billion in 2015, making Mexico the sixth largest destination for U.S. manufacturing investment overseas.

Source: Data compiled from Bureau of Economic Analysis, Commerce Department.

[26] Data compiled from Bureau of Economic Analysis, International Data database, accessed at https://bea.gov/iTable/iTable.cfm?ReqID=2&step=1#reqid=2&step=1&isuri=1.

- Invest in capital expansion, expending $713.5 billion or 24 percent of all investment in new property, plants and capital equipment in the United States in 2014; and
- Pay U.S. manufacturing workers on average $96,030, or about 18 percent more than average U.S. manufacturing wages in 2014.[27]

For many companies, overseas investment is critical in supporting their efforts to export their products successfully or to access critical inputs. In some industry sectors, such as energy, natural resources or foreign infrastructure development, foreign investment is the only way manufacturers can access the resources they need to grow and support downstream manufacturing. For many other manufacturers, foreign investment is necessary to compete with local players to reach foreign consumers as they can set up their own distribution networks, can tailor products to the local consumer and can more efficiently and successfully win sales.

That U.S. investment abroad is largely focused on reaching foreign customers is borne out by the data reported by the Commerce Department's Bureau of Economic Analysis: year-after-year sales by U.S. foreign affiliates are almost entirely made to customers outside the United States: some 94 percent of the $4.6 trillion in sales in 2014.[28] Those sales overseas help drive U.S. manufacturing exports, production and higher paying U.S. jobs. Without this foreign investment, many of these goods would not be sold by American companies at all, or would use foreign, not U.S. content. As a consequence, foreign investment is a powerful tool for manufacturers in the United States to access growing foreign markets, while growing benefits for manufacturing and workers in the United States.

U.S. investment overseas not only helps spur growth in the United States, it helps open protected foreign markets. By spurring more open and fair competition with competitors overseas, U.S. investment overseas helps to eliminate the protected market conditions that give rise to unfair trade. With fair competition, foreign competitors cannot raise domestic prices without consequence, helping to prevent actions that would other act as a precursor to foreign predatory pricing in the U.S. or third country markets.

Improved Investment Access, Protections and ISDS Enforcement Are Critical

In investing globally, manufacturers face significant risks in overseas markets, from foreign government expropriation of U.S. assets and discriminatory and unfair government action to forced localization and related requirements to use foreign inputs, to transfer technology or rely on local employment. In the United States, the Takings, Due Process and Equal Protection clauses of the U.S. Constitution and the Administrative Procedure Act and other laws are a core part of the checks and balances of the U.S. legal system to prevent the government from mistreating domestic property owners. American companies are seeking equivalent types of provisions in overseas markets to ensure that U.S. property and investment overseas are accorded the same basic access and protections that their foreign competitors already enjoy in the United States as a matter of domestic law.

[27] *Id*.
[28] Data accessed at https://bea.gov/iTable/index_MNC.cfm.

Primary ISDS Protections	Examples of U.S. Law
Non-discrimination (National Treatment/ Most-Favored Nation)	14th Amdt (Equal Protection), U.S. Constitution
Fair and equitable treatment/minimum standard treatment	5th and 14th Amdts (Due Process), U.S. Constitution; Administrative Proceedure Act
Compensation for government expropriation	5th Amdt (Takings), U.S. Constitution and state constitutions

To enforce these rules, U.S. agreements have long authorized investors to bring cases against foreign governments before neutral ISDS arbitration panels proceedings. These ISDS enforcement panels provide a neutral set of referees to ensure a fair and unbiased outcomes and compensation when foreign governments steal U.S. property, discriminate against U.S. investors or otherwise act in an arbitrary and unfair manner. While the ISDS system provides more limited remedies than domestic court (*i.e.*, monetary compensation only and no change in law), manufacturers across the country depend on ISDS to ensure a neutral and fair forum to enforce commitments and resolve disputes that governments may seek to ignore.

<u>NAFTA's Investment Provisions Need Updates and Improvements to Level the Playing Field and to Keep U.S. Property Safe</u>

While NAFTA Chapter 11 includes many of the basic investment provisions, the basic rules need updates to improve and add provisions necessary to ensure that manufacturers' property and investment overseas are fully protected and to ensure that the Canadian and Mexican governments are bound to equivalent levels of property protection as the United States already provides investors from both countries. Among the key changes that would improve the current agreement for manufacturers are provisions to:

- **Protect inventors from unfair government actions** by ensuring that Canada and Mexico accord U.S. intellectual property strong protections as protected investments allowing them access to investor-state dispute proceedings to protect them against inappropriate government expropriation.
- **Expand market access** by ensuring that Canada and Mexico accord U.S. investors the ability to invest and to expand investments on a non-discriminatory basis, including by locking in reforms that have opened markets since NAFTA was negotiated.
- **Expand forced technology transfers** and related requirements to prevent government parties from conditioning new or expanded investments on the transfer of technologies, production processes, or other proprietary knowledge.
- **Expand enforcement for contract breaches of "investment agreements"** to ensure U.S. investors can use ISDS for breaches of existing and future investment agreements with the host government at least with respect to investments related to a) natural resources that a national authority controls, such as for their exploration, extraction, refining, transportation, distribution, or sale; (b) the supply services to the public on behalf of the Party, such as power generation or distribution, water treatment or distribution, or telecommunications; or (c) infrastructure projects, such as the construction of roads, bridges, canals, dams, or pipelines, that are not for the exclusive or predominant use and benefit of the government.

- **Expand access to neutral enforcement for all industries** to ensure the ability of all industries to utilize ISDS for all access and protection terms of the investment chapter.
- **Expand enforcement period** comparable to later agreements to provide investors at least ten years after the termination of the underlying agreement to utilize enforcement mechanisms with respect to core access and protections provisions.

H. Raise Standards to U.S. Levels to Prevent Anti-Competitive Actions Overseas, including by State-Owned and State-Favored Enterprises

Strong rules that foster pro-competitive and market-driven economies are critical to manufacturers seeking access to foreign markets. Government action that favors national champions or state-related or state-owned enterprises (SOEs) undermines a level playing field and the conditions of competition both in that country and, potentially, in third countries.

The NAM seeks enforceable outcomes in a modernized NAFTA to ensure fair, transparent and nondiscriminatory competition policy systems, and ensure that state-favored, state-related and state-owned enterprises at central and sub-central levels act in accordance with commercial considerations and do not enjoy unfair advantages in their home markets or third-country markets. Promoting fair competition will aid in the promotion of U.S. exports and the growth of U.S. jobs.

<u>NAFTA's Competition and SOE Provisions Need Updates to Promote Fair Competition across North America</u>

U.S. trade agreements negotiated since NAFTA have substantially improved upon the provisions included in Chapter 15 of NAFTA, which covers completion policy, monopolies and state enterprises. Among the key changes that would improve the current agreement for manufacturers are provisions to:

- **Ensure fair, transparent and nondiscriminatory competition policy systems** that are subject to dispute settlement.
- **Strengthen provisions on SOEs to ensure a level playing field for** manufacturers, and which are subject to dispute settlement.

I. Raise Standards to U.S. Levels to Ensure Transparency and Strong Rules on Anti-Corruption

Transparency and stakeholder input in government rule-making are fundamental to the U.S. system, as are strong prohibitions on bribery government corruption. These types of obligations are vital not just for the functioning of the U.S. government, but also are important for manufacturers competing in foreign markets. Lack of transparency, weak administrative and judicial review procedures, and corruption overseas impede manufacturers' ability to participate on a level playing field in many foreign countries.

Notably, many other countries lack the core transparency provisions found in basic U.S. laws, such as the Administration Procedure Act, or other requirements for particular types of rulemakings. Similarly, the United States has been a leader in prohibiting and enforcing strong rules against government corruption and bribery.

NAFTA Needs Updates and Improvements to Promote Transparency and Anti-Corruption Measures

While the NAFTA included some obligations for greater transparency, trade-agreement practice has increasingly evolved to impose stronger requirements for across-the-board transparency in rulemaking, improved transparent practices in highly regulated sectors and stronger obligations requiring parties to a trade agreement to combat bribery of public officials and other forms of corruption.

Among the key changes that would improve the current agreement for manufacturers are provisions to:

- **Adopt state-of-the-art transparency processes for government rule-making**, including requirements for public notice and comment and neutral judicial review of administrative rulings.
- **Require transparency and procedural fairness** in the regulation of pharmaceutical products and medical devices.
- **Require adoption of strong anti-corruption and enforcement rules**, including rules to criminalize bribery and public corruption.

J. Modernize Dispute Settlement Procedures and Agreement Review Mechanisms

Effective, timely, objective and binding dispute settlement provisions are vital to ensure each agreement obligation is fully enforced. Dispute settlement provisions in various agreements to which the United States is a party have been improved in the last 15 years, to enhance not only provisions to reach mutually agreeable settlements, but also to ensure that dispute settlement is binding. Improvements in traditional dispute settlement provisions are required both to expedite procedures and ensure disputes are resolved in a commercially timely manner, as well as to provide stronger enforcement provisions. The value of the ultimate agreement can only be ensured through strong, mutually agreed, time-limited and neutral dispute settlement procedures.

NAFTA's Dispute Settlement Provisions Need Updates and Improvements to Promote Transparent, Effective and Timely Dispute Resolution and Periodic Agreement Reviews

The NAFTA's inclusion of binding dispute settlement was a precedent-setting provision when it was first adopted. Yet, later agreements have modernized dispute settlement procedures to ensure their effective utilization. Among the key changes that would improve the current agreement for manufacturers are provisions to:

- **Improve dispute settlement procedures** to enhance transparency and the ability of countries to settle disputes in a timely, effective and fair manner.
- **Establish periodic agreement reviews** to provide opportunities to identify and address problems and to tackle new issues.

III. Conclusion

As the administration moves forward on the NAFTA renegotiations, the NAM urges it prioritize work to address remaining distortions and barriers in Canada and Mexico, raise standards and improve enforcement provisions in order to improve U.S. competitiveness in North America and globally and to grow good-paying jobs and U.S. manufacturing output. The NAM looks forward to working closely with both the Office of the U.S. Trade Representative and other parts of the administration as the negotiations move forward. The NAM urges that efforts be undertaken in a timely manner and consistent with the substantive and procedural requirements of the Bipartisan Congressional Trade Priorities Act of 2015.

Summary of Testimony Linda Dempsey, Vice President, International Economic Affairs,
National Association of Manufacturers
For Hearing on
Negotiating Objectives Regarding Modernization of NAFTA
(Docket USTR-2017-0006)
June 12, 2017

The National Association of Manufacturers (NAM) is the largest manufacturing association in the United States, representing over 14,000 manufacturers small and large in every industrial sector and in all 50 states. The NAM welcomes the opportunity to provide input on the administration's negotiations with Canada and Mexico to modernize the North American Free Trade Agreement (NAFTA). The NAM shares the administration's overall goals for this negotiation, as outlined it its May 18 notification letter to Congress, to "support higher paying jobs in the United States and to grow the U.S. economy by improving U.S. opportunities under NAFTA." The NAM also agrees that a modernized NAFTA must be consistent with the substantive Trade Promotion Authority (TPA) negotiating outcomes detailed in section 102 of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015.

For manufacturers throughout the United States, the North American commercial market is the most important market in the world. Over 60 percent of U.S. manufacturing output in 2016 ($1.36 trillion) was sold in the United States, Canada and Mexico. Canada and Mexico purchased one-third of all U.S. manufactured goods exports in 2016, more than the next ten U.S. trading partners combined.

The strong and deep commercial relationship has grown with partnerships that manufacturers in the United States have with businesses in Mexico and Canada, which have enabled U.S. manufacturing to be more competitive globally than if those partnerships did not exist. U.S. manufacturing output has nearly doubled since NAFTA was negotiated and U.S. manufactured goods exports to Canada and Mexico alone support the jobs of more than two million men and women in the United States.

Most U.S. manufacturing sectors (36 out of 42) count Canada or Mexico as their top foreign purchasers, and Canada or Mexico are also the first or second largest export market for manufacturers in 46 U.S. states.

Yet, the NAFTA was negotiated and implemented before individuals could hold access to the internet in their hands, before farmers could see crop yields by looking at the dashboard on their tractors, and before major technological and energy innovations helped change what and how the United States manufactures here.

As such, the NAM welcomes the opportunity to review the operation of the NAFTA and to work to improve this 23-year old agreement. In doing so, it is critical that outcomes are ones that will sustain and grow higher-paying American jobs and grow U.S. manufacturing production, exports and competitiveness. To be successful, a renegotiated NAFTA must also be fully consistent with the substantive TPA trade negotiating objectives contained in the Bipartisan Congressional Trade Priorities and Accountability Act of 2015. At the same time, it is vital to ensure that any renegotiation does not set back U.S. manufacturing or manufacturing jobs. For example, changes and additions that would increase red tape and complexity, substitute government decision-making for free market-based decisions or raise taxes, tariffs, merchandise processing or other fees or other cost barriers in North America will undermine, rather than incentivize, manufacturing in the United States and North America more broadly.

In particular, the NAM welcomes work to modernize and improve the NAFTA through outcomes that will:

1. Fully Open Canadian and Mexico Markets so Manufacturers Can Sell More Made-in-the-USA Goods and Grow American Jobs

2. Reduce Border Delays and Unnecessary Red Tape to Accelerate Sales, Cut Small Business Costs and Mitigate Security Risks

3. Improve North American Rules and Processes to Stop Trade Cheating

4. Raise Standards to U.S. Levels to Ensure Transparent, Science-Based Regulatory Practices that Promote Fairness and Non-Discrimination and Reduce Burdens

5. Incorporate New Data, E-Commerce and Related Provisions to Address 21st Century Technology Barriers

6. Raise Standards to U.S. Levels and Modernize Enforcement to Protect U.S. Innovation and Intellectual Property from Theft and Mistreatment Abroad

7. Raise Investment Standards to U.S. Levels and Modernize Enforcement to Protect U.S. Property from Theft and Mistreatment Abroad

8. Raise Standards to U.S. Levels to Prevent Anti-Competitive Actions Overseas, including by State-Owned and State-Favored Enterprises

9. Raise Standards to U.S. Levels to Ensure Transparency and Strong Anti-Corruption Rules

10. Modernize Dispute Settlement Procedures and Agreement Review Mechanisms