WRITTEN SUBMISSON OF THE NATIONAL FOREIGN TRADE COUNCIL

Comment Regarding Causes of Significant Trade Deficits for 2016

Docket Number DOC 2017-0003

May 10, 2017

These comments are submitted by the National Foreign Trade Council (NFTC) to assist in preparation of the Omnibus Report on Significant Trade Deficits (the Omnibus Report). Pursuant to Executive Order 13786, issued March 31, 2017, the Secretary of Commerce and the United States Trade Representative (USTR) have been directed to prepare and submit the Omnibus Report to the President. Pursuant to a Federal Register notice, published on April 17, 2017 (the FR Notice), interested persons have been asked to submit comments in connection with the Omnibus Report.

NFTC is dedicated to making America more competitive in the global economy by ensuring the adoption of forward-looking tax and trade policies, by strengthening global rules and by opening foreign markets to U.S. products and services. Our strong support for these objectives, and our belief that their fulfillment is essential to our members' success in a globalized economy, have been unwavering for decades. We therefore believe that it is critical to provide policymakers in the Administration with our clear views about the role trade and tax policies play in unleashing a new era of U.S. competitiveness.

NFTC represents more than 200 companies and our membership spans the breadth of the national economy. It includes sectors such as energy products, capital goods, transportation, consumer goods, technology, healthcare products, services, e-commerce and retailing. Our companies account for more than $3 trillion in total sales worldwide, employ over five million Americans and produce a huge share of our nation's total exports. Our stake in ensuring a healthy national economy and promoting our global leadership is enormous.

Although we recognize the importance of pursuing policies to make America more competitive and to address foreign barriers, NFTC does not believe that unfair or discriminatory practices by certain trading partners are the main cause of our merchandise trade deficits with those trading partners. NFTC agrees that U.S. exporters of both goods and services often face trade barriers when trying to reach consumers in foreign markets. Absent other domestic policy changes, however, even the most successful effort to eliminate barriers will not lead to substantial reductions in our bilateral or global trade deficits. Trade barriers are not the major driver of trade deficits.

There is substantial support in the economic community for this position. See, e.g., J. Gagnon, "We Know What Causes Trade Deficits," Petersen Institute for International Economics (written comments to Omnibus Report, filed on Apr. 21, 2017); G. Hufbauer and Z. Lu, "Free Trade Agreements and Trade Deficits," Petersen Institute for International Economics, Mar. 31, 2017; D. Griswold, "America's Maligned and Misunderstood Trade Deficit," Cato Institute, Apr. 20, 1998. These authorities, as well as many others, draw from the overwhelming body of economic research and analysis showing that trade deficits, in general, are a product of larger macroeconomic and fiscal policy decisions, and can only be impacted marginally by trade policy. It is therefore important to emphasize that concerns over trade deficits and trade barriers should be de-linked, thereby ensuring that the Administration will direct U.S. trade policy towards the important task of addressing those market access barriers of greatest significance to U.S. goods and services exporters, while relying on broader macroeconomic and fiscal policy prescriptions to address trade deficits.

The FR Notice has asked those submitting written comments to focus on trading partners with the largest trade deficits in goods in 2016[1] and, based on the enumerated trading partners, asks for an assessment of whether those trading partners have placed burdens on or discriminated against U.S. exports. There is no question that, in the case of each of these trading partners, trade barriers continue to exist. These barriers are well-documented in the 2017 National Trade Estimate Report on Foreign Trade Barriers (the NTE Report),[2] a report produced each year by USTR, which conducts an extensive interagency consultation process with industry and other stakeholders. It is worth noting that U.S. exporters face similarly onerous barriers in a number of countries with which we do not have significant deficits, and which are consequently not the focus of the Omnibus Report. In some cases – Brazil for example – we even enjoy an overall surplus but still face significant barriers in key sectors. This example merely underscores our argument that trade deficits should not be the primary factor in determining which priority barriers to address under U.S. trade policy.

1As listed in the FR Notice, these trading partners are: Canada, China, the European Union, India, Indonesia, Japan, Korea, Malaysia, Mexico, Switzerland, Taiwan, Thailand, and Vietnam.

2 https://ustr.gov/sites/default/files/files/reports/2017/NTE/2017%20NTE.pdf.

For each of the 13 trading partners enumerated in the FR Notice, the NTE Report contains an extensive discussion of both goods and services trade barriers faced by U.S. exporters in each of these trading partners. In the case of China, for example, the NTE Report documents numerous trade barriers of concern to NFTC members, including but not limited to restrictive ICT policies; data and technology localization policies; granting of subsidies to domestic industries; limits on government procurement opportunities; services access barriers; cloud computing restrictions; and cybersecurity laws which will severely restrict internet-enabled services. A similar catalogue of barriers has been compiled for the other 12 trading partners. The NTE Report is an extremely important policy tool for identifying and prioritizing trade barriers and distortions and should be relied upon heavily by USTR and other agencies in developing U.S. negotiating priorities. It has been developed with the input and cooperation of U.S. industry, and represents a comprehensive inventory of our market access problems across the globe. It would raise significant concerns on our part if the Administration, rather than relying upon the NTE Report, chose to rely on some new tool for identifying barriers only for a discrete list of countries with whom we have a trade-in-goods deficit.

In addition to the NTE Report, USTR produces an annual report on trade barriers in the intellectual property (IP) area, known as the Special 301 Report (the "Special 301 Report").[3] This is an additional tool to help identify the most significant practices and policies around the world that harm the appropriate protection and use of intellectual property by U.S. innovators. Of the enumerated trading partners, the Special 301 Report

3 https://ustr.gov/sites/default/files/301/2017%20Special%20301%20Report%20FINAL.PDF. As with the NTE Report, this annual report is based upon information gathered from interagency consultations, public comments and U.S. Embassies.

contains extensive discussion of the intellectual property barriers faced by U.S. exporters in eight of those countries. Pursuant to the 2017 Special 301 Report, China, Indonesia, Thailand and India were designated as "Priority Watch List" countries, and Vietnam, Canada, Mexico and Switzerland were designated as "Watch List" countries.

For most of our members, any prioritizing of the 13 partners mentioned would place China, India, Japan and the European Union (EU) higher on the list with regard to barriers than either Canada or Mexico. This does not suggest that the barriers cited in the NTE Report for Mexico and Canada are less significant, but it does mean that the existing commitments of these two countries under the NAFTA agreement have addressed many barriers, and that, in the case of major trade partners with which we have no such agreement, the degree and magnitude of barriers is much greater. Tariff levels are a case in point, but this also applies to many non-tariff restrictions. While concerns remain with our NAFTA partners, and while we hope efforts to strengthen the North American trade relationship will address those concerns, a robust effort will be needed to prioritize our objectives in these non-FTA relationships and seek negotiations to address our concerns.

In light of the need for effective economic diplomacy to tackle barriers in non-FTA markets, it is imperative for the Administration to consult with U.S. exporters and producers as it plans a path forward. NFTC, along with many of our member companies, were actively engaged during negotiation of the Trans-Pacific Partnership (TPP) in identifying systemic barriers in several countries that are the subjects of this Omnibus Report, especially Japan, Malaysia and Vietnam. TPP contained commitments from all three countries which would have substantially reduced the level and scope of barriers we face in those markets. It will be important to seek alternate avenues for addressing barriers in these markets, building on progress already made with these countries through the WTO and other arrangements.

There is also a need to focus on the longstanding and persistent barriers we face in the EU, which are fully outlined in the NTE Report, particularly considering the halt in progress to conclude the Transatlantic Trade and Investment Partnership (TTIP). Notwithstanding the fact that the US-EU trade and investment relationship is one of the most open and vibrant in the world, there are still a number of unresolved issues. We look forward to hearing the Administration's ideas for engaging the EU bilaterally through TTIP and through other negotiating forums such as the Trade in Services Agreement.

Finally, we emphasize the significant problems U.S. exporters and investors face in China, which is an important and complicated market for American businesses. The Administration must balance efforts to encourage the healthy growth many American companies have enjoyed in exports to China while also finding leverage to address a growing list of concerns that the United States and other countries have with Chinese trade and regulatory policies. The lack of progress – and in many cases policy reversals – in the adoption of fair and non-discriminatory rules and policies by the current Chinese authorities in areas such as subsidies, state-owned enterprises, technology, intellectual property protection, services and agriculture are major causes for concern. The TPP agreement would have created a powerful new normative force in the Asia-Pacific region to help move Chinese policymakers in a more responsible direction. With TPP off the table, it is now imperative to outline a policy direction with respect to China and other trading partners in the Asia-Pacific that will help achieve similar results.

Thank you for the opportunity to present our comments. If you have any questions regarding our comments, please contact Rufus Yerxa, President of the NFTC, at (202) 887-0278.