



WRITTEN SUBMISSION OF THE NATIONAL FOREIGN TRADE COUNCIL

Comments Regarding NAFTA Negotiations

Docket Number USTR-2017-0006

June 12, 2017

These comments are submitted by the National Foreign Trade Council (NFTC) to assist the Office of the United States Trade Representative (USTR) in developing its negotiating objectives and positions regarding the modernization of the North American Free Trade Agreement (NAFTA). On May 18, 2017, following consultations with the relevant Congressional committees, USTR informed Congress that the President intends to commence negotiations with Canada and Mexico with respect to NAFTA. Pursuant to a Federal Register notice, published on May 23, 2017 (FR Notice), interested persons have been asked to submit comments regarding these negotiations.

Introduction

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 that 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,

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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 large share of our nation's total exports. NFTC members play an important role in ensuring a healthy national economy and promoting U.S. global leadership.

Guiding Principles for NAFTA Modernization

As consultations begin with Congress and the private sector on how to modernize this vital agreement, the member companies of NFTC want to state our unequivocal support for an outcome that will maintain and build upon NAFTA's success in creating a more open and integrated North American market and strengthening America's competitiveness in the global economy. Our membership includes many of our nation's largest exporters, with extensive North American production platforms. We depend heavily on a smooth-functioning open market among the three NAFTA countries. Any effort to modernize NAFTA must recognize this reality. While it is important to address remaining barriers, especially those affecting newer technologies and modes of trade that didn't exist when NAFTA was enacted, we already enjoy significant gains from the elimination of tariffs and reduction of other barriers achieved under NAFTA. Any final agreement that diminishes our existing access will have significant adverse effects on our U.S. operations, sales and employment.

It is therefore vital to ensure that negotiations to modernize NAFTA result in a strengthening of our trade ties with our North American partners. We believe there are many ways the agreement can be improved, and are prepared to work closely with U.S. negotiators to identify key potential gains for the United States from a modernization of the agreement. In particular, we see important gains to be made by including new commitments in areas not contemplated when NAFTA was negotiated over 20 years ago, by upgrading the rule-book in

traditional areas of non-tariff discipline in ways that will improve trade and by eliminating remaining tariffs that were not removed under the existing agreement.

Based on the aforementioned, NFTC believes that the effort to upgrade NAFTA should be guided by the following basic principles and objectives:

1. The New NAFTA Should Create More Open Markets and Better Rules, Not New Restrictions.

Negotiations should be focused on improving market access and ensuring greater fairness, but must not become a pretext for designing new trade restrictions or undermining existing access.

2. The New NAFTA Should Strengthen the North American Production Platform.

The agreement should strengthen North America as an integrated production platform for goods and services, enhancing U.S. producers' competitiveness in global markets, while also maintaining strong investment protections in all three countries.

3. The New NAFTA Should Remain a Tripartite Agreement.

The final agreement should maintain common rules and commitments among all three NAFTA partners. Separate bilateral agreements create greater inefficiencies for U.S. exporters.

4. The New NAFTA Should Reflect the Changing World Economy.

Negotiations should create new rules to ensure open markets in digital trade, e-commerce and other new technologies and modes of commerce that were not covered by the original agreement, establish new disciplines on state-owned enterprises and create better opportunities for small and medium-sized enterprises to compete in global commerce.

5. The New NAFTA Should Update Rules in Other Areas Covered by the Original Agreement.

Negotiations should seek to update NAFTA's rules on services, intellectual property, customs and trade facilitation, sanitary and phytosanitary measures, technical regulation, and regulatory

coherence to both ensure greater fairness and openness in NAFTA trade and make NAFTA a better model for future negotiations with other regions.

Specific Negotiating Objectives

The FR Notice has invited comments on a number of specific topics. We address those topics in detail below.

Customs and Trade Facilitation

In modernizing NAFTA's customs and trade facilitation provisions, the focus should be to streamline and make fully transparent customs procedures and expedite the customs clearance process in order to ensure that the movement of goods across the NAFTA borders is efficient and timely. Further, the goal of all improvements in this area should be to provide for transparent procedures that require customs authorities to treat products fairly. As all three NAFTA partners are signatories of the World Trade Organization (WTO) Trade Facilitation Agreement (TFA), the modernized text should reflect these commitments. Specifically, a revised NAFTA should address the following:

- All agencies with border responsibilities should provide information online, especially regarding the publication of applicable fees, charges and quotas.
- Adoption of new regulations should be done via a transparent procedure with stakeholders being given an adequate opportunity to comment on proposed new regulations
- Provisions regarding advance rulings need to be standardized and improved. The rulings should be issued in a reasonable time frame and should be made publicly available once issued. In the case of Mexico, a formal appeal process should be implemented to allow for review of such rulings.

- Provisions should be included to address release and clearance of goods at the border, including the use of paperless entries.
- The NAFTA countries should work to harmonize their “trusted trader” programs which will better facilitate trade for those who can meet the program requirements.
- NAFTA should be modernized to allow for acceptance of electronic signatures for the certification process in all three countries.
- The duty drawback provisions in the agreement should be modernized to conform with similar provisions in other U.S. free trade agreements.
- Given the importance of shipping to the competitiveness of U.S. businesses, including for American small businesses who sell to customers in Canada and Mexico, there should be an explicit commitment to require expedited customs treatment for low value and low risk shipments. Specifically, provisions regarding streamlining of documentation and timely release of goods for these shipments should be included in the modernized text.

Most importantly, the agreement should establish a commercially-meaningful *de minimis* threshold in Canada and Mexico. Low *de minimis* thresholds in both countries disproportionately affect businesses who engage in sales via the Internet and regularly ship low-value items or items in small quantities.

U.S. businesses of all sizes would benefit from these trade-facilitating changes to customs rules and procedures. Such revisions would also unlock the exporting potential of small and medium-sized businesses (SMEs) in particular, who often find complex customs procedures and costs to be among the most serious obstacles to trade.

Modernization of these provisions would enhance the ability of customs officials to prevent abuses and enable the customs authorities of all three countries to cooperate more efficiently to combat duty evasion, counterfeit trade and other customs offenses. The text should be updated to promote provision of assistance between the three countries in order to enforce customs laws and regulations, including information sharing as appropriate to pursue investigations of unlawful activities.

Digital Trade

The NAFTA modernization must help foster an open Internet and prevent the imposition of measures that result in data flows being burdened by unnecessary costs or blocked or that create unnecessary obstacles to digital trade. When NAFTA was first negotiated, digital trade was in its infancy. Today, digitally deliverable services account for more than half of all U.S. services trade and more than one-sixth of overall U.S. trade in goods and services.¹ Businesses across every industry depend on the Internet and the ability to move data in order to manage operations, reach new customers and become more productive.

Effective participation in the global marketplace relies on an underlying public policy framework that facilitates the movement of digital information, Internet-enabled platforms and the open Internet, as well as the services and the physical goods that the digital economy enables. A framework of rules for digital trade in North America will benefit both businesses and consumers and support U.S. economic growth, jobs and innovation. Almost every sector of the

¹ The U.S. Department of Commerce Economics & Statistics Administration released an update to their earlier *Digital Economy and Cross-Border Trade: The Value of Digitally-Deliverable Services* report with a revised estimate on the importance of digital trade to the U.S. economy in May 2015. <http://esa.doc.gov/economic-briefings/digitally-deliverable-services-remain-important-component-us-trade>.

U.S. economy, from manufacturing to services to farming, and including SME's, now depends in large part on digital technology to provide the innovation and efficiency that drives economic growth.

Digital trade disciplines in a modernized NAFTA must ensure open global flows of information and promote an open Internet, while regulating appropriately for the public good. This chapter would complement modernized customs and trade facilitation provisions discussed above to encourage a suite of policies that enable the global digital economy to function. Specifically, a NAFTA digital trade chapter must do the following:

- Ensure that companies and consumers can access and move information freely; prohibit governments from requiring local storage of information or dictating the location of computing facilities; and ensure that such commitments apply fully to financial services and financial services providers.
- Ensure non-discriminatory treatment of digital products.
- Prohibit the imposition of customs duties on digital products, the value of electronic transmissions or the value of data being transferred
- Prohibit governments from requirements that force suppliers to share software source code, encryption keys or proprietary algorithms with foreign governments or commercial competitors when entering a NAFTA market.
- Prohibit countries from making market access contingent on the forced transfer of technology.
- Include appropriate protections for Internet intermediaries regarding third-party activity that occurs on their networks, platforms or other services, consistent with

U.S. law. (Obligations related to protections for intermediaries in the copyright context are addressed separately below).

- Provide for use of diverse electronic signature and authentication methods to allow transactions through secure online payment systems.
- Require the NAFTA countries to promote paperless trading, including the use of customs forms in electronic format.
- Provide that new and innovative digital products and services are protected against future discrimination.
- Eliminate to the extent possible the “cultural carve-out” in NAFTA and, in any event, ensure that content can be distributed online without any national treatment exceptions or market access restrictions.

Modifications to Rules of Origin

NAFTA’s rules of origin (ROOs) were heavily negotiated in the original agreement and they have functioned well over time. They are reasonable, balanced and should be maintained as they currently exist. The ROOs, and the certainty that they will not be subject to change, have allowed U.S. companies to integrate supply chains between the three NAFTA markets, making it possible to fabricate products for North American markets, as well as export markets, in cost-effective ways. Changes to the ROOs would inevitably reduce the massive benefits that the integration of the North American market has afforded to U.S. companies. This in turn will impair the global competitiveness of U.S. companies, threatening U.S. jobs and U.S. economic growth.

Sanitary and Phytosanitary Measures and Technical Barriers to Trade

The NAFTA chapter on sanitary and phytosanitary (SPS) measures provides rules that ensure that SPS measures are science-based and developed and implemented in a transparent, predictable and non-discriminatory manner by the NAFTA countries. The rules also preserve the ability of regulatory agencies in these countries to take necessary steps to ensure food safety and protect plant and animal health. However, as with other NAFTA chapters, the agreement needs to be updated so that, rather than just reaffirming a commitment to the WTO SPS Agreement, new and improved SPS provisions are incorporated into the modernized NAFTA. The draft SPS chapter from the TPP provides important new features which will enhance the ability of U.S. food and agricultural exporters to gain market access and create a strong template for future U.S. trade agreements. Specifically, the modernized NAFTA chapter should include provisions which promote the use of risk analysis to improve the scientific basis of SPS regulations; require the publication of SPS regulations for public comment; require that importers and exporters be notified expeditiously if shipments are detained for SPS concerns; and establish procedures for NAFTA countries to quickly resolve unwarranted SPS barriers that block the export of U.S. food and agricultural products.

The NAFTA chapter on technical barriers to trade (TBT) aims to ensure that technical standards do not become barriers to trade. It provides that the setting of technical standards, conformity assessment procedures and technical regulations are developed in a fair and transparent manner and not in a way that favors domestic industry. The draft TBT chapter of the TPP provides new features that build on the WTO TBT Agreement and should be incorporated into the modernized NAFTA text. These include new transparency requirements; provisions to ensure that information on regulatory decision-making is publicly available; and important assurances regarding the conformity assessment process. Further, the TPP utilized

annexes for specific products, including cosmetics, medical devices and pharmaceuticals; information and communications technology products; wine and distilled spirits; formulas for food products; and organic products. These annexes promote a common regulatory approach and should be incorporated into NAFTA to enable producers in the North American region to benefit from the efficiencies generated by common, harmonized standards.

Barriers to trade in services

NAFTA secured improved market access for U.S. service providers in both Canada and Mexico and continues to provide important guarantees for service providers. The “negative list” approach guaranteed market access and non-discriminatory treatment for all services except those subject to specific and scheduled non-conforming measures (NCMs). NAFTA modernization provides the opportunity to harvest additional services market access, such as the additional commitments agreed to by Canada and Mexico in the TPP negotiations. The three parties should not schedule NCMs that are any broader or more numerous than those which were agreed to in the TPP negotiations. Addition of chapters on electronic commerce, state-owned enterprises and small and medium-sized businesses, as well as improvements to existing chapters on customs, intellectual property and investment (all of which are discussed in other sections of our comments), will help U.S. service providers compete more effectively in the North American market. The Coalition of Services Industries has filed useful comments with regard to NAFTA modernization that will assist U.S. service providers and we urge you to review their proposals. See Written Comments of Coalition of Services Industries (dated June 12, 2017).

Trade-Related Intellectual Property

The United States is an economy driven by innovation. In all facets of American industry, including such sectors as technology, medical, pharmaceutical, entertainment, agriculture, aerospace and education, the United States is a world leader in research and development. Our companies develop groundbreaking technologies, products and services, which we export to the world. These companies rely on effective intellectual property frameworks and appropriate protection of intellectual property (IP) rights to help incentivize investment in research and innovation in the United States and around the world.

NAFTA's chapter on intellectual property was drafted two decades ago. A revised IP chapter of the NAFTA can provide important protections for the many innovations, in both products and services, which U.S. companies will trade in the North American region. It should recognize international norms drawn from the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) as well as on other international best practices. A revised chapter can also serve as a template for future trade negotiations in this important area.

Specifically, a NAFTA chapter on the trade-related IP issues should address:

- Regarding patents, the NAFTA members should consider creating a NAFTA patent priority period of 30 months. All three NAFTA countries are currently signatories to the Patent Cooperation Treaty (PCT), so all agree in principle to the 30-month period. Creation of a NAFTA patent priority period would allow for similar protections in the NAFTA region at less cost to the applicants. The NAFTA members should also consider creating a common registry for transfers of ownership of IP rights.
- NAFTA renegotiation also provides an opportunity to address Canada's heightened patent utility standard known as the "promise doctrine". The doctrine,

which has resulted in 28 court decisions invalidating biopharmaceutical patents for lack of utility, is inconsistent with international practice.

- Consistent with current U.S. law, the IP chapter should be updated to include a 12-year period of regulatory data protection for biologic medicines.
- Regarding trademarks, the revised chapter should clarify and strengthen protection of brand names and logos used to distinguish products in the marketplace.
- The revised chapter should ensure that, in connection with a NAFTA member's country-code top-level domain name registration system, appropriate remedies are available in cases of bad faith registration of domain names that are confusingly similar to registered trademarks.
- Address the problem of inappropriately overprotective geographical indications, which serve to limit the opportunities for U.S. agricultural and food producers.
- The chapter should include provisions on establishing copyright safe harbors for online service providers consistent with U.S. law.
- The chapter should contain copyright provisions that provide adequate and effective protections for rights holders as well as foster an appropriate balance in copyright systems, including through limitations and exceptions necessary for the U.S. digital economy and consistent with the internationally recognized three-step test.
- Regarding trade secrets, the revised chapter should update the trade secret provisions of NAFTA to require NAFTA members to establish criminal procedures and penalties for trade secret theft, including by means of cyber-theft. The existing procedural provisions for civil litigation regarding trade secrets should also be updated to reflect best practices, which have changed since NAFTA was drafted.

- The chapter should clarify that parties cannot exclude state-owned enterprises from IP enforcement rules, including trade secret enforcement proceedings.
- The chapter should be revised to include best practices in IP enforcement, including civil and administrative procedures and remedies, provisional measures, border measures and criminal enforcement procedures. The NAFTA members should also commit themselves to work together in global policymaking forums to advocate for robust IP protections.

Investment

International investment is a key driver of U.S. economic growth. It benefits the entire U.S. economy by boosting exports of goods and services while also supporting high-paying jobs in the United States. However, U.S. investments in other countries can encounter severe challenges, such as performance requirements that force an investor to favor another country's domestic technology, as well as direct and indirect expropriation. Investment protections in trade agreements provide assurance of basic, rule of law protections as well as recourse to neutral, international arbitration in the event of an investment dispute. The NAFTA chapter on investment includes a set of core obligations that provide basic protections to NAFTA investors, protections which are entirely consistent with U.S. law. In addition, the chapter provides a mechanism for settlement of disputes between investors of one NAFTA country and the government of another NAFTA country, which protects U.S. investors and investments in Canada and Mexico.

NAFTA's chapter covering investment was drafted two decades ago and needs updating. A revised investment chapter of the NAFTA can provide important improvements in both the core obligations and the dispute settlement procedures. Further, a revised chapter can

serve as a template for future trade negotiations in this important area. Specifically, a revised NAFTA chapter on investment should:

- With regard to core obligations, provide investors with the ability to invest and expand investments without discriminatory barriers (such as equity cap requirements or non-national security based screening mechanisms) in all sectors on a pre- and post-establishment basis, with only limited exceptions.
- Include provisions to prohibit NAFTA members from conditioning new or expanded investments on the transfer of technologies, production processes, or other proprietary knowledge.
- Clarify key concepts regarding treatment obligations, such as the right of countries to regulate in the public interest. However, the revised chapter should not provide for any industry-specific or product-specific carve-outs or exceptions from coverage.
- Clarify that the NAFTA investment disciplines apply to state-owned enterprises (SOEs) so that SOEs cannot take actions that discriminate against foreign investors and then evade challenge by asserting that they are not covered by the investment chapter.
- The chapter should also be revised so that it allows breaches of “investment agreements” between an investor and a foreign government to be enforceable through the chapter’s dispute settlement process.
- With regard to settlement of investment disputes, the chapter should be revised to provide stronger procedures for these dispute proceedings. Reforms should include expanding the rules which discourage and dismiss frivolous suits; clarifying that the claimant bears the burden to prove all elements of its claim;

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allowing governments to issue binding interpretations of the agreement; making proceedings fully open and transparent; and providing for participation of civil society organizations and others who are not a direct party to the dispute.

- The revised chapter should provide detailed guidance on arbitrator ethics and issues of arbitrator independence and impartiality.

Government Procurement

The ability of U.S. companies to bid for government contracts with our NAFTA partners is a key export opportunity for U.S. manufacturers and service providers. Many procurement opportunities exist in areas, such as infrastructure and transportation, information technology equipment, engineering, health equipment and supplies, and professional services, where U.S. companies are world leaders. The NAFTA contains a strong procurement chapter that helps U.S. companies access these procurement opportunities by committing our NAFTA partners to clear, transparent, predictable and non-discriminatory rules for these procurements. The chapter enables U.S. exporters to compete for procurement opportunities by ensuring that they have timely information available on upcoming procurements, that technical specifications are fair and non-discriminatory, that tender procedures are transparent and that adequate time is provided for foreign bidders to participate. We consider it critical that these provisions be maintained in the modernized NAFTA.

Environmental issues and Labor

In the structure of the original NAFTA, environmental and labor issues were handled by means of two side agreements which were not integrated into the text but were companion agreements to the text. In the modernized NAFTA, it is important that environmental and labor issues be integrated as chapters into the overall text. Further, the parties should consider replacing the original side agreements with the TPP chapters on labor and environment, which

include updated and more comprehensive provisions that both Canada and Mexico have already accepted in the context of TPP negotiations.

Small and Medium-Sized Business

Small and medium-sized business enterprises (SMEs) make up an enormous segment of the U.S. economy, representing the overwhelming majority of U.S. employer businesses.² They are significant drivers of job growth in the United States, regularly adding jobs³ and creating new opportunities to export American products and services.⁴

A goal of a modernized NAFTA should be to promote and support U.S. SMEs engaged in global trade and to address barriers that pose a disproportionate impact on small business exports. Such barriers include inaccessible or unduly burdensome trade paperwork, opaque regulatory processes, inefficient customs administration and delivery issues involving low-value shipments. Modernization of NAFTA customs provisions (see comment on customs provisions above), including establishment of a commercially-meaningful *de minimis* threshold, and the introduction of a NAFTA digital trade chapter (see comment on digital trade above) will help SMEs, but there are additional provisions which should be added in a new chapter dedicated to SMEs.

2 A 2016 SBA study noted that the U.S. has 28.8 million small businesses which employ 56.8 million employees. U.S. Small Business Administration Office of Advocacy (2016). "Small Business Profile." https://www.sba.gov/sites/default/files/advocacy/United_States.pdf. (p.1).

3A small business profile produced by the U.S. Small Business Administration found that in 2013, 48% of Americans in the private sector were employed by SMEs and that in 2013 alone 1.1 million jobs were created by small businesses.

U.S. Small Business Administration Office of Advocacy. (2016). "Small Business Profile." https://www.sba.gov/sites/default/files/advocacy/United_States.pdf. (p.1).

4 USTR notes that SMEs that export create more and higher paying jobs. USTR. "Small Business." <https://ustr.gov/issue-areas/small-business>

The goal of this new chapter should be to ensure that SMEs have access to useful information that will enable them to fully participate in the benefits of NAFTA. Specifically, a NAFTA chapter addressing SMEs should require each NAFTA country to create a dedicated website, targeted at SME users, to provide easily accessible information on NAFTA to these exporters. This information should include contact information for relevant agencies, information on country-specific standards and regulations, procedures for protection of intellectual property rights, foreign investment regulations and business registration procedures. Further, to ensure ongoing engagement by NAFTA members on SME issues, the members should establish a mechanism to meet regularly to review SME participation in the NAFTA economies and to consider ways to enhance the benefits of NAFTA for SMEs.

State-Owned Enterprise

State-owned enterprises (SOEs) are entities that are owned or controlled by a government but are principally engaged in commercial activities. SOEs have grown rapidly over the past decade and have become major actors in global trade and in cross-border investment. Their international activity has raised concerns about the effects of government influence, potential trade distortions, and unfair competition. SOEs can distort competition to the disadvantage of private companies when they receive advantages from governments, such as preferential financing (including through state-owned banks), provisions of goods and services at preferential prices or free of charge, direct subsidies, and debt forgiveness. These preferences tilt the playing field in favor of SOEs and against U.S. companies and workers. Of significant additional concern, SOEs that had previously operated exclusively within their home territories are increasingly engaged in international trade of goods and services and are acting as active investors in foreign markets.

Addition of a chapter on SOEs to NAFTA will ensure that businesses in the North American region, regardless of ownership, can compete fairly with SOEs through enforceable rules. The goal of this new chapter should be to ensure that SOEs compete on the basis of quality and price, and not on the basis of discriminatory regulations, subsidies or favoritism. This will ensure that their trade and investment activities do not place U.S. companies and their workers at a disadvantage. Specifically, a NAFTA chapter addressing SOEs must do the following:

- Provide a definition of SOEs that is broad enough to include SOEs that are principally engaged in commercial activity as well as SOEs that are acting under delegated authority from a government.
- Provide that, when SOEs make commercial purchases and sales, they do so on the basis of commercial considerations (except when doing so would be inconsistent with a mandate under which the SOE is required to provide public services).
- Provide that SOEs cannot discriminate against the companies or goods or services of another NAFTA party.
- Require NAFTA members to provide their courts with jurisdiction over commercial activities of foreign SOEs so that a foreign SOE operating in a NAFTA member country cannot evade legal action regarding its commercial activities by claiming sovereign immunity.
- Require that NAFTA members ensure that any administrative bodies regulating both SOEs and private companies do so in an impartial manner.

- NAFTA members must ensure that, in providing non-commercial assistance to SOEs, a NAFTA member does not cause adverse effects to another NAFTA member's domestic industry.
- Recognize the importance of transparency in this area and require that NAFTA members share a list of their SOEs with the other NAFTA members (and provide, upon request, additional information about the extent of government ownership or control of the SOE as well as non-commercial assistance provided to the SOE).
- Provide carefully tailored prudential exceptions for SOEs, such as allowing a NAFTA member to respond temporarily to an economic emergency.

Additional Issues

Regulatory Coherence: A modernized NAFTA should include robust commitments to sound regulatory practices, including transparency, impartiality, consultation with affected stakeholders, due process, and impact assessments of proposed measures and consideration of alternatives. The agreement also should provide for coordination among regulators in the United States, Canada, and Mexico to ensure a coherent regulatory approach that enables the cross-border value chains so important to supporting American jobs and exports. The NAFTA parties should reinforce and build on existing regulatory cooperation mechanisms, such as the U.S.-Canada Regulatory Cooperation Council and the U.S-Mexico High Level Regulatory Cooperation Council, to create a forum for trilateral regulatory cooperation.

Remanufactured Goods: A modernized NAFTA should include language to ensure that national treatment and market access are provided for remanufactured goods. The current agreement's disassembly rule should be maintained to ensure that components recovered from a product disassembled in a NAFTA country will be considered originating. However, a modernized

NAFTA should include language that requires that remanufactured imports will not be treated differently from new imports.

Conclusion

NFTC supports efforts to modernize and update the NAFTA to reflect changes in the North American economy since its entry into force and to make it a better, stronger and more relevant agreement for producers, consumers and workers. It is, however, critical to ensure that any effort to improve the agreement recognizes the central role NAFTA plays in improving the well-being of our companies and the competitiveness of the U.S. economy. Our producers and exporters rely on a North American production platform, with extensive supply chains between the three NAFTA countries and major investments in all three markets. The partnership between these three countries, and the cross-border trade and investment flowing from that partnership, should be the core concern of any modernization effort. We will strongly support an outcome that strengthens this partnership and improves the conditions for open, mutually beneficial trade with our NAFTA partners

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.