



## **Comments on *Promoting Supply Chain Resilience***

**Docket Number USTR-2024-04869**

**April 22, 2024**

The National Foreign Trade Council (NFTC) is pleased to provide comments in response to the Office of the U.S. Trade Representative's (USTR) Federal Register notice, *Request for Comments on Promoting Supply Chain Resilience*, (89 FR 16608) published March 7, 2024 ("FR Notice"). As requested, NFTC provides its perspective below on overall objectives and strategies that would advance U.S. supply chain resilience in trade negotiations, enforcement, and other initiatives.

The first section of this submission provides an overview of several overarching points that provide necessary context to fully frame our more detailed comments. One, it is important to understand what supply chains are and the factors that influence companies' decision-making in creating them. Two, supply chain resilience is best achieved when governments and the private sector partner in the pursuit of trade policies with targeted trade partners to create a durable, predictable ecosystem that enables companies to access and move goods and services needed to support their supply chains and protects investments in these markets once made. Three, there is inherent tension between managed trade and resilience. Finally, NFTC challenges USTR's premise that prior U.S. trade and investment policy created a "race to the bottom" where companies seek to locate production in markets with the lowest cost, including low labor and environmental standards.

The second section provides NFTC's perspective on the current trends and strategies for de-risking and increasing supply chain resilience and provides our input in response to several questions posed in the FR notice.

### **ABOUT THE NATIONAL FOREIGN TRADE COUNCIL**

NFTC is the premier association for leadership and expertise on international tax and trade policy issues. We believe trade and tax policies should foster fair access to the opportunities of the global economy and advance global commerce for good. NFTC serves as a nimble and effective forum for businesses to engage critical and complex issues together and to foster trust with governments to improve policy outcomes in the U.S. and around the world. Leveraging its broad membership and expertise, the NFTC contributes to a greater understanding of the critical role that an open, rules-based international economy plays in the success of American businesses, entrepreneurs and workers, and shared global prosperity.



## **OVERVIEW OF SUPPLY CHAINS AND FACTORS THAT AFFECT THEM**

Since the COVID 19 pandemic, making supply chains more resilient has become a ubiquitous objective across industry sectors and governments around the world. In order to consider how to make supply chains more resilient, it is important to first understand what supply chains actually are and the factors that influence the business decisions that lead to their creation.

Each individual supply chain arises from a company's considered and weighed evaluation of numerous criteria. This evaluation often requires the balancing of a network of input and material suppliers, service providers, production and distribution centers, and transportation and logistics providers. Across these factors, companies must also evaluate the investment climate and regulatory environment. These networks are global, with goods and services crossing borders multiple times to bring a product from design to end user, and frequently further to include recycling and reuse.

Resilient supply chains are designed to both prevent supply chain disruptions from occurring in the first place and recover more quickly from those that do happen, in both cases in a manner that learns lessons to mitigate future vulnerabilities. As one NFTC member company has described it, resiliency requires companies to balance "just in time" with "just in case."<sup>1</sup> Factors like adaptability, agility, and access to real-time data determine the level of resilience in individual supply chains.

### **Leveraging Trade Agreements to Support Supply Chain Resilience**

Strategically designed trade policies are an effective tool to enhance the resilience of supply chains by creating an ecosystem of durable and predictable rules that lower costs and reduce frictions as goods and services move across borders. The supplier diversification that resilience requires means the U.S. needs a network of like-minded trade partners that have committed to open and fair markets to ensure that essential goods can be made available in the market faster and more efficiently. A too-heavy focus on only supplying from the U.S. domestic market will undermine supply chain resilience, alienate the very allies that are needed to achieve real supply chain security, and create inefficient production patterns. Instead, supply chain resiliency must come from flexibility and redundancy, both of which are made easier by trade agreements that promote cooperation among allies.

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<sup>1</sup> Shari Diaz, "What is supply chain resiliency?," *IBM*, September 20, 2021, [What is supply chain resiliency? - IBM Blog](#).



For example, trade agreements can promote tariff reduction on key inputs and equipment, harmonized standards, regulatory best practices and transparency, trade facilitation, access to government procurement opportunities that are reinforced with accountability mechanisms. In sum, trade agreements of this kind enhance the overall predictability that encourages investment by American businesses. Deepening trade ties with partner countries also creates opportunities to encourage the adoption of more rigorous standards related to sustainability, labor policies, and other objectives of responsible trade relationships. For example, trade agreements could be a tool to implement standards that prohibit forced labor from entering U.S. supply chains. This approach is far more effective than applying pressure to supply chain infrastructure and processes when products arrive at ports. USTR should increase supply chain resilience by addressing the root causes of forced labor where manufacturing occurs. This approach has the double benefit of being more likely to prevent the use of forced labor in the first place and prevent more burdensome downstream compliance measures needed to address potential violations. Sectoral agreements, such as critical mineral deals with key allies, also provide a key opportunity to help adjust next-generation supply chains away from adversarial nations.

Digital trade policies are also a key piece of the supply chain ecosystem. Restrictions on cross-border data flows and data localization mandates prevent access to comprehensive, real-time data, creating blind spots that limit companies' ability to anticipate potential disruptions to supply chains. Protections from mandatory disclosure of source code and bans on discrimination against U.S. digital products protect core IP and ensure that U.S. companies in all sectors compete on a level playing field. Strong digital trade rules promote growth, innovation, and job creation across multiple sectors. Digital trade supported over 3 million American jobs in 2022, including in sectors such as autos, agriculture, and financial services.

### **U.S. Trade Policy Did Not Create a Race to the Bottom**

USTR asserts in the FR Notice that traditional trade policy has created a race to the bottom and contributed to the hollowing out of the American industrial base. The narrative of “unfettered globalization” and a race to the bottom is false. Indeed, U.S. free trade agreements have created effective new tools for addressing labor and environment issues in other markets. For example, the U.S. - Peru Trade Promotion Agreement included significant new commitments and tools to help Peru address challenges with illegal logging that likely would not have been possible to achieve in the absence of a comprehensive trade agreement.

It is also a misconception that low cost and minimal regulation are the primary factors driving most corporate sourcing decisions. Instead, companies seek suppliers that balance a combination of factors including risk, predictability, quality, technical capabilities, and availability, in addition to price. A low cost/low wage supplier that cannot deliver a quality product, on time, on a reliable basis will not last long in anyone's supply chain.



Trade and investment are mutually reinforcing, and U.S. companies bring and enforce high consumer protection, health, labor and environment standards globally when they invest abroad. Moreover, companies have supported enhanced labor and environment provisions in trade agreements because they seek suppliers who will work as partners to implement and enforce these standards and they are investing heavily in enhancing visibility throughout supply chains to ensure that the products they make are sustainable and meet any applicable voluntary or mandatory standards of this kind.

However, to the extent that governments increasingly look to impose new standards on supply chains through border measures, they must also understand that compliance with those measures limits supply chain resilience if it becomes too costly or time consuming to pivot to new suppliers. It is also significantly more difficult for companies to look back through a supply chain to ensure compliance than it is to build in compliance from the start. Trade policy can be an effective tool to help to harmonize approaches so that labor, environment, and other standards can be met in a way that does not overly burden supply chain resilience. In doing so, the government can help the private sector more easily identify safer and more reliable trading partners.

The so-called “hollowing out of the American industrial base” due to trade agreements is an equally false premise that is not supported by facts. It ignores the role of technology, productivity and automation in transforming U.S. manufacturing towards more advanced manufacturing, leading to higher paying jobs that are less labor intensive. This is evident in rising wages across the automotive industry. As discussed elsewhere, trade agreements also increase the availability of inputs that drive the competitiveness of many American manufacturers. Beyond supporting exports, the ability of trade agreements to increase sourcing options is key in increasing resilience.

Manufacturers investing in their American supply chains today must solve for the pervasive workforce gaps existing in traditional manufacturing settings. Manufacturers have worked to innovatively solve for the ongoing labor crisis through technological advancements and embracing robotics and machine learning tools, a significant gap between available manufacturing jobs and availability of labor remains.

Demand for high-skilled manufacturing labor is growing and so too should support for training and upskilling of America’s manufacturing workforce. As U.S. manufacturers modernize, the skills gap only continues to balloon – the Manufacturing Institute projects that there will be 2.1



million unfulfilled jobs by 2030 due to the unavailability of high-skilled laborers.<sup>2</sup> The redefining of America’s industrial workforce necessitates a more modern industrial, workforce, and trade policies that propel U.S. manufacturing to digitize and decarbonize. This is not a “hollowing out of the American industrial base,” but a necessary and prudent modernization that demonstrates American excellence in manufacturing and technology.

The future of American manufacturing rests on human capabilities *and* technology – an ecosystem created by the innovation of manufacturers over the past several decades. Manufacturers – and our trade partners – have created a foundation for the U.S. to have the cleanest, most modernized industrial base globally. Having a fortified supply chain supported by trade agreements and a strong, healthy American industrial base can both be true. On the contrary, an industrial policy that fails to invest in and bolster a diminishing workforce to meet extraordinary labor demand *and* requires manufacturers to drastically limit the scope of their supply chains creates a tension that will undoubtedly impact American consumers.

## **DETAILED COMMENTS ON TOPICS PRESENTED IN THE FR NOTICE**

### Open, Rules-based Trade Supports American Manufacturing

Trade - essentially the movement of goods and services - into the U.S. is an economic catalyst for domestic manufacturing and directly supports U.S. jobs. Over 40 million jobs in the U.S. rely on the process of trading goods or use of the products that are being traded<sup>3</sup>. Importantly, American jobs that are supported by trade pay on average more than other types of employment.<sup>4</sup>

As discussed above, U.S. manufacturers that export rely on trade to source inputs for products that are sold domestically and around the world, contributing to \$2.5 trillion in exports. American manufacturers, in particular, source industrial supplies and capital goods from other

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<sup>2</sup> Kavita Saini et al., “Creating Pathways for Tomorrow’s Workforce Today: Beyond Reskilling in Manufacturing,” *The Manufacturing Institute*, 2021, [Creating Pathways for Tomorrow’s Workforce Today: Beyond Reskilling in Manufacturing](#).

<sup>3</sup> Laura Baughman and Joseph Francois, “Trade and American Jobs: The Impact of Trade on U.S. and State-Level Employment: 2022 Update,” *Trade Partnership*, February 2022, [Trade and American Jobs: The Impact of Trade on U.S. and State-Level Employment: 2022 Update](#).

<sup>4</sup> David Riker, “Do Jobs In Export Industries Still Pay More? And Why?,” *International Trade Administration*, July 2010, [Do Jobs In Export Industries Still Pay More? And Why?](#).



countries<sup>5</sup> that result in annual exports totaling \$1.13 trillion<sup>6</sup>. U.S. Manufacturing exports topped \$1.13 trillion in 2021, three and a half times levels seen 30 years earlier.<sup>7</sup> Promoting the availability of inputs also directly supports American small and medium sized businesses, which are 97% businesses that export and <sup>8</sup> account for 1/3 of all exports<sup>9</sup>.

Pursuing trade and investment policies that promote predictability, efficiency, and agility have proven to support sustainable growth in the broader universe of employment tied to trade (including manufacturing), increase the economic competitiveness of U.S. exporters, and achieve resilience in supply chains that provide the U.S. with critical goods and other everyday products [Question 1]. Trade policy must strike a balance of providing a clear and feasible path to compliance with legal requirements while also preserving the ability of supply chain professionals to independently assess sourcing practices and other supply chain structures that best accommodate their needs.

Ensuring efficiency of domestic manufacturing to make the best use of imported products and capitalize on export opportunities created by the global trade ecosystem are critical components to American economic competitiveness and security. For instance, encouraging continued automation of manufacturing, to include advanced and smart manufacturing, to avoid disruption in critical industries such as food processing, clean energy, and pharmaceutical production. Further, direct benefits such as tax incentives in areas directly related to national and economic security would enhance competition in a way that provides predictability for industry to pursue long-term growth.

Promoting the expansion of advanced automation and production capabilities in the US could be an effective plan to increase competition among manufacturers in critical industries, expand

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<sup>5</sup> Brendan Duke and Ryan Mullholland, “Trump’s Tariff Would Cost the Typical American Household Roughly \$1,500 Each Year,” *American Progress Action*, March 27 2024, [Trump’s Tariff Would Cost the Typical American Household Roughly \\$1,500 Each Year](#).

<sup>6</sup> Bureau of Economic Analysis, “U.S. International Trade in Goods and Services, December 2021,” *Bureau of Economic Analysis*, February 8 2022, [U.S. International Trade in Goods and Services, December 2021 | U.S. Bureau of Economic Analysis \(BEA\)](#).

<sup>7</sup> National Association of Manufacturers, “Manufacturing in the United States,” *National Association of Manufacturers*, 2024, [Manufacturing in the United States - NAM](#).

<sup>8</sup> The Office of Trade & Economic Analysis, Industry & Analysis, International Trade Administration of U.S. Department of Commerce, “EDB NATIONAL DATA: EXPORTER CHARACTERISTICS, 2019,” *International Trade Administration*, April 2022, <https://www.trade.gov/data-visualization/edb-national-data-exporter-characteristics-2019>.

<sup>9</sup> The Office of Trade & Economic Analysis, Industry & Analysis, International Trade Administration of U.S. Department of Commerce, “ITA Exporter Database 2019,” *International Trade Administration*, April 2020, <https://www.trade.gov/2019-ita-us-exporters-database>.



supply chain resilience and lower prices for consumers moving forward. This would allow the US to strengthen export competition globally as well.

Generally, trade and investment policy should reflect an understanding of the availability and impact of product inputs across critical supply chains. More examples are provided below, but consider the pharmaceutical supply chain. While hospital medication has been an emphasis in recent resilience efforts, over the counter and generic medications and products regulated in a similar manner (e.g., baby formula) are known to be at risk for shortages. Investing in manufacturing of Key Starter Materials (KSM) and Active Pharmaceutical Ingredients (API) would provide long-term sourcing capacity for these important products. Moreover, by working with allies to reduce and eliminate barriers to trade in pharmaceuticals, medical goods, and inputs, the United States could help ensure that these investments are successful in the long term.

American manufacturing is benefiting from a trading environment that encourages capital investment, promotes exports, and provides protections to counter harmful trade practices [Question 2]. Investment in the domestic industrial base has generated \$650 billion in new private sector investments.<sup>10</sup> Investment in auto manufacturing, biotech, and other industries across entire regions of the country are creating jobs throughout those supply chains. Right now, the auto industry has invested tens of billions of dollars in domestic electric vehicle manufacturing and next-generation auto manufacturing.

Question 2 in the FR notice asks what existing or new tools could help ensure that growth in domestic manufacturing does not undergo the same offshoring that we have experienced over the past few decades, implying that a new form of trade remedy is needed. While domestic manufacturers accrue small benefits from tools such as antidumping and countervailing duties, the net impact on the U.S. economy can be negative. The U.S. currently has 674 AD/CVD orders in palace<sup>11</sup> on products with the aggregate import value of \$18.2 billion<sup>12</sup>. The additional cost of importation associated with AD/CVD duties is passed on to the U.S. consumer. As research has found, the imposition of tariffs as trade remedies are passed to the consumer, having inflationary impacts of up to 125%.<sup>13</sup> The downstream cost increases, particularly to U.S. manufacturers and has a negative impact on competitiveness – particularly when U.S. manufacturers then have to compete in the global market to export American products. The bottom line is clear: tariffs hurt

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<sup>10</sup> The White House, “Investing In America,” *White House*, April 1 2024, [Investing In America | The White House](#).

<sup>11</sup> International Trade Administration, “ADCVD Proceedings,” *International Trade Administration*, 2024, [AD/CVD Proceedings](#).

<sup>12</sup> Congressional Research Service, “Trade Remedies: Antidumping and Countervailing Duties,” *Congressional Research Service*, February 28 2023, [Trade Remedies: Antidumping and Countervailing Duties](#).

<sup>13</sup> Aaron Flaaen et al., “The Production Relocation and Price Effects of US Trade Policy: The Case of Washing Machines,” *American Economic Review* Volume 110, No. 7 (2020), <https://www.aeaweb.org/articles?id=10.1257/aer.20190611>.



American exporters.<sup>14</sup> Tariff-based trade remedies have also been found to increase input costs and inflate production and manufacturing costs of U.S. exports by 4.5%.<sup>15</sup> USTR should adopt policies that consider the downstream economic implications of often overly broad trade remedies, such as AD/CVD, for U.S. businesses and consumers would promote economic competitiveness and reliable sourcing options for supply chains.

Rules of Origin for FTAs should be linked to ensuring that products originate in the country or region that is a party to the agreement, but not burdensome to the point of rendering the FTA useless [Question 8]. Instances where trade with a partner country or regions has declined post-FTA can typically be tied to attempts at managing trade through restrictive Rules of Origin. Further, restrictive Rules of Origin divert trade and undermine the benefits of FTAs.<sup>16</sup> Citing experiences following Dominican Republic-Central America U.S. Free Trade Agreement (CAFTA-DR), as an example, many traders have cited complex rules of origin related to textiles as a limiting factor because U.S. producers of yarn and fabric were not able or willing to supply the inputs that support eligibility for the preference program when importing into the U.S. This results in having to use inputs subject to higher tariffs or moving production operations entirely.<sup>17</sup> Creating market forces that promote trade expands the impacts of recent advances that U.S. firms have made in complying with labor and environment standards and the application of visibility and transparency measures.

As noted in Section I, the presence of U.S. companies abroad promotes the adoption of high standards, particularly in the areas of labor and environment protections. [Question 3] Creating conditions that provide confidence in the U.S. trade relationship with these countries makes it possible for American companies to operate in those countries. At a very basic level, investment by U.S. companies in other economies creates a relationship that incentivizes the elevation of standards across the trade environment. For example, recent positive reports of labor condition improvements in Bangladesh seem to have been driven by a desire to attract U.S. business investment in operations that would result in exports to the U.S. As another example, U.S. Customs and Border Protection modified a Withhold Release Order (WRO) against an Indian

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<sup>14</sup> Andrew Chatzky and Anshu Siripurapu, "The Truth About Tariffs," *Council on Foreign Relations*, October 8 2021, <https://www.cfr.org/backgrounder/truth-about-tariffs#chapter-title-0-6>.

<sup>15</sup> Aaron Flaaen and Justin Pierce, "Disentangling the Effects of the 2018-2019 Tariffs on a Globally Connected U.S. Manufacturing Sector," *Federal Reserve*, 2019, <https://www.federalreserve.gov/econres/feds/files/2019086pap.pdf>.

<sup>16</sup> Antoni Estevadeordal and Kati Suominen, "Rules of Origin in the World Trading System," *World Trade Organization*, November 14 2003, [https://www.wto.org/english/tratop\\_e/region\\_e/sem\\_nov03\\_e/estevadeordal\\_paper\\_e.pdf](https://www.wto.org/english/tratop_e/region_e/sem_nov03_e/estevadeordal_paper_e.pdf). (pg. 50)

<sup>17</sup> J.F Hornbeck, "The Dominican Republic-Central America-United States Free Trade Agreement (CAFTADR): Developments in Trade and Investment," *Congressional Research Service*, April 9 2012, <https://sgp.fas.org/crs/row/R42468.pdf>. (pg. 25, first bullet)





apparel company after, only one month later, that company addressed five previous indicators of forced labor in its supply chain.<sup>18</sup>

As mentioned above, the U.S. manufacturing base is expanding, not contracting. Rules-based trade has raised, not lowered, the bar for sustainability and labor standards. The makeup of manufacturing in the U.S. has evolved, been made more efficient by automation, and facilitates employment that is both higher-paying and less labor-intensive. The U.S. boasts several use cases of smart factories that have been modernized to be more sustainable and productive, in conjunction with being more favorable to today's manufacturing workforce. Schneider Electric's smart factory in Lexington, Kentucky, was once an aged brownfield that incorporated digitization and automation to become a Lighthouse facility recognized by the World Economic Forum. The factory's over 400 employees now have the ability to control core processes remotely, improving efficiency, simplifying maintenance processes, and optimizing the facility's energy usage.<sup>19</sup> Furthermore, smart manufacturing is helping to attract, train, and retain a committed workforce of younger generations as previous generations retire.<sup>20</sup> These enhanced efficiencies promote supply chain resilience, benefitting both American industry and consumers.

Moreover, many supply chain risks can be mitigated through effective trade facilitation policy. A 2022 report by Third Way found that the adoption of various trade facilitation measures would create 987,000 American jobs and save \$88 billion in export costs.<sup>21</sup> The obstacle holding our economy back from realizing these economic benefits is red tape. The recommendations of this report outlined tangible steps in the areas of simplifying border processes, embracing digitalization, and focusing on speed and security. Border processes should be simplified to make the rules, fees, and procedures accessible and predictable. Digitalization leverages technology to streamline trade processes, automates government forms, reduces costs and corruption by allowing digital payments at the border. Keeping goods moving through simplified processes using validated risk management programs, including duty-free entry for low-value goods, lowers pressure on supply chain infrastructure.

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<sup>18</sup> U.S. Customs and Border Protection, "CBP Modifies Withhold Release Order on Natchi Apparel (P) Ltd.," *U.S. Customs and Border Protection*, September 7 2022, [CBP Modifies Withhold Release Order on Natchi Apparel \(P\) Ltd. | U.S. Customs and Border Protection](#).

<sup>19</sup> Schneider Electric, "Schneider Electric's Lexington Smart Factory Earns Fourth Industrial Revolution Advanced Lighthouse Designation by World Economic Forum," *Schneider Electric*, September 17 2020, [Schneider Electric's Lexington Smart Factory Earns Fourth Industrial Revolution Advanced Lighthouse Designation by World Economic Forum](#).

<sup>20</sup> John Clemons, "Smart Manufacturing Helps Achieve Workforce Excellence Part 1: Focus On People, Data And Analytics," *Forbes*, May 4 2023, <https://www.forbes.com/sites/forbestechcouncil/2023/05/04/smart-manufacturing-helps-achieve-workforce-excellence-part-1-focus-on-people-data-and-analytics/?sh=1be817589116>.

<sup>21</sup> Gabe Horwitz, "Reducing the Red Tape around Supply Chains," *Third Way*, July 25 2022, <https://www.thirdway.org/report/reducing-the-red-tape-around-supply-chains>.



In addition to raising the U.S. de minimis threshold, the value under which imports are not required to pay customs duties, Congress also declared in the Trade Facilitation and Trade Enforcement Act (PL 114-12) that “*the U.S. Trade Representative should encourage other countries through bilateral, regional, and multilateral fora to establish commercially meaningful de minimis values*”.<sup>22</sup> This is reflected in the Trade Facilitation Agreement<sup>23</sup> and the U.S.-Mexico-Canada Agreement.<sup>24</sup>

The current de minimis threshold prevents the government from mis-allocating significant resources to collect relatively minimal revenue and exempts goods from taxes and fees that would double the end cost of the average low-value shipment entering the U.S.<sup>25</sup> Preserving the current U.S. de minimis policy and encouraging trading partners to adopt or increase de minimis thresholds would lower costs and red tape for American consumers, small businesses, and exporters. Perhaps more importantly for U.S. exporters, a strong U.S. de minimis policy raises the bar for similar policies in other countries. American textiles, for example, exported \$30 billion in products in 2023.<sup>26</sup> U.S. leadership in this area plays a role in promoting policies in other countries that made at least a portion of those exports more competitive. If the current U.S. de minimis threshold is degraded in the future, other countries would likely follow suit and increase costs on U.S. exports to those countries – reducing the competitiveness of American exporters.

From a consumer perspective, de minimis particularly important. It prevents low-income consumers, a group that disproportionately shops online for everyday necessities, from being charged tariffs on everyday necessities.<sup>27</sup>

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<sup>22</sup> U.S. Congress, “Statute 130: Public Law 114–125 114th Congress,” *U.S. Congress*, February 24 2016, <https://www.congress.gov/114/statute/STATUTE-130/STATUTE-130-Pg122.pdf>. (See sec 901 (emphasis added))

<sup>23</sup> World Trade Organization, “Protocol Amending the Marrakesh Agreement Establishing the World Trade Organization,” *World Trade Organization*, November 27 2014, <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/L/940.pdf&Open=True>. (See Article 8.2(d))

<sup>24</sup> United States Trade Representative, “USMCA Chapter 7: Customs Administration and Trade Facilitation,” *United States Trade Representative*, July 1 2020, [USTR - 7-1 CHAPTER 7 CUSTOMS ADMINISTRATION AND TRADE FACILITATION Section](https://ustr.gov/about-us/policy-practice/agreements/usmca-chapter-7). (See article 7.8(1)(f))

<sup>25</sup> John Pickel, “Facts: The De Minimis Tax Exemption,” *National Foreign Trade Council*, <https://www.nftc.org/wp-content/uploads/2023/07/Facts-The-De-Minimis-Tax-Exemption.pdf>.

<sup>26</sup> National Council of Textile Organizations, “Trade: Facts and Figures,” *National Council of Textile Organizations*, 2023, <http://www.ncto.org/facts-figures/trade/>.

<sup>27</sup> Katheryn N. Russ et al., “US tariffs are an arbitrary and regressive tax,” *VoxEU Centre for Economic Policy Research*, January 12 2017, <https://cepr.org/voxeu/columns/us-tariffs-are-arbitrary-and-regressive-tax#:~:text=Tariffs%20%E2%80%93%20taxe%20on%20imported%20goods,on%20some%20key%20consumer%20goods>.



## Sector Considerations

Diversified sourcing, risk mitigation, compliance, due diligence, and other foundations of resilient supply chains are known disciplines to industry. They have been in practice for decades and provided a strong foundation for quick rebounds when faced with disruptions related and ancillary to the Covid-19 pandemic [Question 10].

Below are non-exhaustive observations related to select industries. NFTC member companies operate across industry sectors and stand ready to serve as a resource to discuss specific supply chains or provide input on specific risks across supply chains [Question 4].

### *Pharmaceuticals*

The USTR should support passage of the Medical Supply Chain Resiliency Act (S. 2115/H.R. 4307), a bipartisan bill that bolsters U.S. national security by enhancing medical supply chain resilience between the U.S. and our allies. Specifically, the bill promotes access to health-related goods by empowering the U.S. to negotiate agreements that eliminate trade barriers and harmonize regulations with U.S. allies who have shown a high level of dependability and compliance.

As discussed above, encouraging advanced manufacturing of APIs and KSMs through resource allocation to manufacturing clusters, streamlining regulatory and permitting processes for new manufacturing facilities, education campaigns around our current limited sourcing of KSMs and APIs, and reform public and private health insurance reimbursement models for future domestic products as scale manufacturing and distribution. Partnering with allies to harmonize regulatory frameworks, promote regulatory reliance, eliminate trade barriers such as export restrictions, promote trade facilitation, and encourage policies that enable innovation would support supply chain resilience.

### *Textiles*

Textile and apparel manufacturers are trying to lead a circular economy transition in their sector. The inability to conclusively rule out the presence of materials made using forced labor in garments that may have been recycled multiple times and the origin of materials is unknowable. This uncertainty doesn't have to prevent broader adoption of commercial recycling and reuse efforts. No company wants forced labor in their supply chain. Industry is eager to adopt sustainable, circular manufacturing processes. Clear, feasible due diligence standards to comply with forced labor when incorporating recycled materials and the perceived value of due diligence services (e.g., traceability services and isotopic testing) in verifying compliance.

### *Agriculture, Forestry, and Fisheries*



Public and private investments in existing authorizations and tax structures to incentivize domestic food processing and production, including frozen foods processing, small grains milling, inland and offshore aquaculture, seafood processing, and associated supply chains would address food security and shortage vulnerabilities. This effort could be modeled after the Administration’s notable work to expand meat and poultry processing as well as domestic fertilizer production.

### *Renewable Energy and Clean Energy*

Realization of sustainable energy commitments will improve efficiency and lead accelerated innovation while lowering reliance on carbon-based energy. Reducing Scope 3 emissions will require an unprecedented scaling of clean energy purchases to address both the electricity consumed by finished products, and used to manufacture everything from semiconductors to fiber optic cables.

To make the best use of existing resources needed in this transition, recycling initiatives will be crucial. USTR should prioritize regional critical minerals recycling facilities domestically and in other countries and incentivize the use of recycled materials in manufacturing processes. Recycling and reusing critical minerals serve as a bridge strategy while additional critical mineral capacity reaches commercial scale and adds long-term capacity to already expanded availability of materials that will continue to experience increased demand. These facilities would expand manufacturing jobs to support end-to-end recycling of critical minerals.

Clean energy investments and carbon reduction targets in the United States have ballooned demand for clean energy products and components. While investments continue to be made in American manufacturing of these goods, many components and products are either completely unavailable in the United States or suffer from extremely limited capacity to serve growing demand. For example, printed circuit board assemblies (discussed at length below) are largely manufactured in Asia, but serve as a high-cost component for clean energy products like drives, industrial automation systems, programmable logic controllers (PLCs), distributed control systems, meter protection relays, uninterruptible power systems and others. These solutions are critical across several critical infrastructure segments.

Additionally, supply chain gaps exist with batteries, servers, drives, displays, and other products critical to the modernization of America’s energy infrastructure and the full implementation of the Infrastructure Investment and Jobs Act (IIJA) and the Inflation Reduction Act (IRA). While the U.S. has invested in domestic battery supply chains to serve the zero-emission vehicle industry, there remains a lack of availability of the type and volume of batteries required for other clean energy uses. Additional investment and trade partnerships will be required to meet the need for batteries required for other applications like uninterruptible power systems and energy storage systems. Limited supply of U.S.-produced servers necessary for Supervisory



Control and Data Acquisition (SCADA) systems and other products primarily manufactured in Asia such as drives – which have long faced supply chain shortages, and displays continue posing an obstacle to realizing America’s clean energy and climate goals. Securing these supply chains through strategic and existing trade agreements is necessary to meet American demand.

Additional Sectors that may need dedicated trade and investment policy approaches include the following, partial list [Question 5]:

### *Printed Circuit Boards*

Much has been made of the importance semiconductors play in almost every product we rely upon and enjoy as consumers, but printed circuit boards (PCB) are perhaps the next most vulnerable, manufacturing-critical component. PCBs are critical components in nearly all electronics equipment, including servers, telecommunications systems, medical devices, and defense systems. American production of PCBs has “plunged” to 4% of global production, down from 30% three decades ago, compared to an increase of Chinese production from 8% to 54%.<sup>28</sup> President Biden and Prime Minister Trudeau announced funding to promote North American manufacturing of certain tech components, including \$52 million for PCBs.<sup>29</sup> In recent versions of the National Defense Authorization Act, Congress introduced sourcing restrictions intended to reduce the Pentagon’s reliance on PCBs made in China by requiring federal contractors to phase out use of such components in US government procurements. However, the most immediate effect of the NDAA provisions seems to be a shift of some planned production of PCBs essential for data processing from China to Taiwan and Vietnam and, to a lesser extent, Mexico. Meanwhile, manufacturing of PCBs not involved in processing (commodity PCBs) remains concentrated in China.

Promoting adequate supply of PCBs is an area of potential cooperation with partner economies in Europe and Asia, as American manufacturers rely on “tooling and materials” in Europe and elsewhere.<sup>30</sup> Encouraging the development of additional sourcing capacity for PCBs will promote economic security across industry sectors and be an important component of overall supply chain resilience.

### *Domestic Food Processing*

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<sup>28</sup> Alan Patterson, “PCB Association Presses Washington for Lifeline,” *EE Times*, June 30 2023, [PCB Association Presses Washington for Lifeline - EE Times](#).

<sup>29</sup> Alan Patterson, “U.S. Crawls Toward Rebuilding Frail PCB Industry,” *EE Times*, April 27 2023, <https://www.eetimes.com/u-s-crawls-toward-rebuilding-frail-pcb-industry/>.

<sup>30</sup> Christopher Cytera, “It’s Not Just Semiconductors — It’s also Printed Circuit Boards,” *Center for European Policy Analysis*, July 24 2023, <https://cepa.org/article/its-not-just-semiconductors-its-also-pcb/>.



Promoting expansion of food manufacturing would address food security vulnerabilities and buttress the food supply chain that relies on these facilities to process input materials into intermediate and final consumption products.<sup>31</sup> From 1972 to 1992, the number of manufacturing facilities in these industries declined by roughly one-third. The top four corporations control more than 80% of the market for beef processing, corn seed, soybean processing, baby food, pasta, cereal, soda, and more.<sup>32</sup> Promoting the expansion of advanced automation and production capabilities in the US could be an effective plan to increase competition among manufacturers in critical industries, expand supply chain resilience and lower prices for consumers moving forward. This would allow the US to strengthen export competition globally as well.

### Identification of Strategic Supply Chains

While our comments briefly explore strategic supply chains of specific industries, NFTC urges the USTR to undertake a comprehensive, industry-inclusive review of strategic supply chains that are most vital to the U.S. economy. Such a review will allow the USTR to engage in more targeted, tailored conversations with trade partners on supply chains that are most at risk and, thus, would benefit from trade arrangements. Additionally, a review conducted in concert with industry would provide manufacturers and suppliers with predictability and certainty to support future manufacturing investments in the United States and the North American region. Finally, an outcome of such a review may find existing regional supply chains prepared to support the vitality of America's economy and industrial base.

### Technical Standards and Technology (Question 7)

Governments should invest in programs that drive transparency, predictability and harmonization across the trade ecosystem. In particular, aligning standards related to supply chain traceability and data element requirements would overcome the current uncertainty of how due diligence and other requirements are implemented. Taking this one step further, the U.S. government should align standards for addressing cross border trade requirements with automated solutions that can be used by industry to address varying regulations among trading partners. For instance, clearly articulating due diligence standards associated with U.S. and EU forced labor laws, including the weight of specific traceability protocols in determining the outcome of administrative reviews, and sharing information available to the government in a way that can inform sourcing decisions would promote resilient supply chains that mitigate the risk of forced labor presence. USTR

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<sup>31</sup> U.S. Department of Agriculture Economic Research Service, "Food and Beverage Manufacturing," *U.S. Department of Agriculture Economic Research Service*, November 14 2023, <https://www.ers.usda.gov/topics/food-markets-prices/processing-marketing/food-and-beverage-manufacturing/>.

<sup>32</sup> U.S. Department of Agriculture Grain Inspection, Packers and Stockyards Administration, "2016 Packers and Stockyards Program Annual Report," *U.S. Department of Agriculture Grain Inspection, Packers and Stockyards Administration*, 2016, [https://www.ams.usda.gov/sites/default/files/media/2016\\_psp\\_annual\\_report.pdf](https://www.ams.usda.gov/sites/default/files/media/2016_psp_annual_report.pdf).



could also specifically encourage trading partners to develop holistic technology protocols that enable multiple types of trade compliance activities. For example, working with the European Union to ensure their forthcoming Digital Product Passport is fit for purpose for current and future state compliance needs. Another opportunity to promote technical standards among trading partners is to encourage mutual recognition agreements, which allow trusted traders from the agreeing countries to reduce border frictions when they have demonstrated a high level of compliance.

### Sourcing Decisions

Access to capital equipment, manufacturing equipment, labor availability, and technology support supply chain resilience, generally speaking. [Question 6] While the mix of needs within those categories are unique to industry sectors, the need for increasingly sophisticated deployment of technology to promote process efficiencies and comply with dynamic regulatory constructs are perhaps the most important in terms of resilience. Technology is also increasingly important to ensure the cross border flow of data.

De-risking techniques such as “friend-shoring” and “near-shoring” are tools that industry has used for decades, although with increased frequency in recent years, especially amidst increased demand in key segments. While these are important options and may be important to promoting the resilience of certain sensitive industries, such sourcing practices should not be required and any government policy to promote these approaches should be done in a manner consistent with our international obligations.

The most consistent element of resilience is the ability of supply chains to source inputs from multiple suppliers and distribute with agility. Overly restrictive policies that inhibit or prohibit sourcing from trade-friendly partners or run contrary to existing trade agreements severely limit the ability of manufacturers to build a strong, agile supply chain. Over-application of “friend-shoring” and “near-shoring” can lead to their own types of vulnerabilities. For example, Mexico is now our largest trading partner, by value of imports into the U.S.<sup>33</sup> This was driven by an influx of over 400 companies investing \$17.2 billion in manufacturing across Mexico.<sup>34</sup> Unfortunately, fragile borders are a limiting factor whether they are shared with friends, whether near or far. In the fall of 2023, U.S. Customs and Border Protection suspended cargo processing at several busy ports of entry to reallocate personnel in response to a surge of migrants arriving at

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<sup>33</sup> United States Census Bureau, “Foreign Trade Statistics and Highlights,” *United States Census Bureau*, March 20 2024, <https://www.census.gov/foreign-trade/statistics/highlights/top/top2306yr.html>.

<sup>34</sup> MND Staff, “400 companies seek nearshoring opportunities in Mexico, says Econ. Minister,” *Mexico News Daily*, November 10 2022, <https://mexiconewsdaily.com/business/companies-nearshoring-mexico-economy-minister/>.



the border near El Paso.<sup>35</sup> The closure of some facilities, including the only toll free bridge connecting El Paso and Juarez, resulted in spillover delays at neighboring ports, some reported to have delayed truck crossings up to 19 hours.<sup>36</sup> The Bridge of the Americas, which averages 600 commercial crossings per day, worth \$33 million per day, was closed for three weeks<sup>37</sup>. Unpredictability in availability of cargo processing capability due to external factors, like immigration processing needs, is a concern to manufacturers that may have to shut down

The 2022 Economic Report of the President defines resilience as the ability of supply chains to recover quickly from unexpected events.<sup>38</sup> [Question 11] While this is a narrow view of resilience, it could be measured through various capacity and performance indicators such as a comparison of year-over-year trade flows in the same industry sector, using the same transportation infrastructure, and consumer surveys to measure product availability among impacted markets impacted by identified events. However, this definition should probably include within the concept of resilience whether supply chain professionals in the government and industry can (1) actively avoid the type of shocks envisioned in the current scope through systematic mitigation of known vulnerabilities and (2) assessing how mitigation of potential and actual supply chain shocks have improved the resilience of supply chains. Relatedly, supply chain resilience implications should be measured against trade policies under consideration. For example, reducing the current de minimis threshold would slow supply chains, distract border resources to collect minimal duty, and have spillover effects in delaying shipments in other modes – all without improving enforceability of U.S. trade laws.

Ultimately, resilient supply chains utilize agile sourcing and are unencumbered by burdensome applications of requirements that can be administered through more efficient means. In this sense, USTR is well-equipped to pursue policies that promote trade facilitation and embracing trusted trader principles that comport with existing standards. Supply chains that can operate in an automated compliance environment are more likely to be resilient. To that end, USTR should work with trading partners to automate and digitize trade processes. The International Chamber

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<sup>35</sup> U.S. Customs and Border Protection, “CBP to temporarily suspend operations at Bridge of the Americas cargo lot,” *U.S. Customs and Border Protection*, November 15 2023, <https://www.cbp.gov/newsroom/local-media-release/cbp-temporarily-suspend-operations-bridge-americas-cargo-lot>.

<sup>36</sup> Kos Temenes, “Delays in Cargo Processing as Border Agents at El Paso’s BOTA Diverted to Process Wave of Illegal Immigrants,” *NTD*, September 21 2023, [https://www.ntd.com/delays-in-cargo-processing-as-border-agents-at-el-pasos-bota-diverted-to-processing-wave-of-illegal-migrants\\_943045.html](https://www.ntd.com/delays-in-cargo-processing-as-border-agents-at-el-pasos-bota-diverted-to-processing-wave-of-illegal-migrants_943045.html).

<sup>37</sup> Anna Giaritelli, “Texas Border Crossing Reopening After Three Week Closure Amid Immigrant Surge,” *Washington Examiner*, October 9 2023, <https://www.washingtonexaminer.com/news/2448172/texas-border-crossing-reopening-after-three-week-closure-amid-immigrant-surge/>.

<sup>38</sup> White House, “Issue Brief: Supply Chain Resilience,” *White House*, November 30 2023, <https://www.whitehouse.gov/cea/written-materials/2023/11/30/issue-brief-supply-chain-resilience/>.





of Commerce and World Trade Organization recently found that, globally, only 1% of required trade documents are digitized<sup>39</sup> and each transaction requires an average of 36 documents, totaling 240 hard copies.

Several specific actions by USTR would be helpful in informing industry supply chain sourcing decisions.

- First, in the official findings or policy communication resulting from this process, it would be helpful to understand which actions USTR will undertake to promote supply chain resilience through direct engagement with trading partners.
- Second, and directly related to overarching labor standards objectives, USTR should work with the Department of State to release a diplomatic strategy that details known risk factors related to specific supply chains in specific countries. Further, developing a mechanism for sharing details of those known risks would help to avoid sourcing practices that may inadvertently source from manufacturers using forced labor. USTR should provide regular, detailed updates on its public facing website to address risk factors associated with forced labor through direct engagement with trading partners.
- Finally, the USTR should undertake – in concert with other relevant agencies, offices, and with industry – a strategic supply chain review to identify supply chains most vulnerable to disruption.

These practices are consistent with statutory requirements in the Uyghur Forced Labor Prevention Act (P.L. 114-78), and promote better informed, more resilient supply chains.

## CONCLUSION

Thank you for the opportunity to provide comments on this important topic. The National Foreign Trade Council and our members look forward to working with you in taking meaningful action on the topics discussed above.

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<sup>39</sup> International Chamber of Commerce, “Standards Toolkit for Cross-border Paperless Trade,” *International Chamber of Commerce*, June 21 2022, <https://iccwbo.org/news-publications/policies-reports/standards-toolkit-for-cross-border-paperless-trade/>.