WRITTEN SUBMISSION OF THE NATIONAL FOREIGN TRADE COUNCIL

Request for Public Comments on the Operation of the Agreement Between the United States of America, the United Mexican States, and Canada

Docket Nos. USTR-2025-0004
Nov. 3, 2025

SUMMARY:

The National Foreign Trade Council (NFTC) strongly supports the United States–Mexico–Canada Agreement (USMCA) and urges the Administration to reaffirm the Agreement for another 16-year term during the Joint Review scheduled for July 1, 2026. NFTC also urges an expeditious trilateral review process that secures commitments to ensure parties are fully living up to their obligations, which addresses non-tariff barriers, and pursues only targeted improvements without opening the agreement.

In the five years since the USMCA superseded the North American Free Trade Agreement (NAFTA), the updated agreement has delivered record U.S. trade and deepened North American integration. In 2024, U.S. goods and services trade with Mexico and Canada totaled 1.844 trillion ($935 billion and $909 billion, respectively),[1][2] an increase from $1.3 trillion in 2019, the year preceding entry into force. This amounts to a 34% increase in goods exports from the United States to our North American partners.

Preserving the integrity of the agreement and its trilateral framework is critical for continued U.S. business success and the future competitiveness of the North American manufacturing region. The review also presents an opportunity to ensure all parties have implemented and are adhering to their existing USMCA commitments. Where parties consider ways to enhance the agreement, it is critical that the core tenets remain protected and unchanged. Furthermore, any changes should be implementable under the authorities of the Free Trade Commission, as laid out in the agreement and implementing legislation, without triggering the need for new U.S. legislation.

About NFTC:

The NFTC, organized in 1914, is an association of U.S. business enterprises engaged in all aspects of international trade and investment. Our membership covers the full spectrum of industrial, commercial, financial, and service activities, accounting for over $6 trillion in revenue and employing 6 million people in the United States.

[1] Office of USTR Trade Summary with Mexico; https://ustr.gov/countries-regions/americas/mexico

[2] Office of USTR Trade Summary with Canada: https://ustr.gov/countries-regions/amenforcementericas/canada

OVERVIEW:

NFTC appreciates USTR's consideration of public comments in advance of the USMCA Joint Review. Our comments focus on the importance of preserving and not reopening the text of the USMCA, given the careful balance in the agreement and the risk of undermining the economic advantage the current agreement provides for the U.S. in competing not only with our North American partners, but around the world.

In a relationship where more than $5 billion is traded between the United States and its two neighbors each and every day, the vast majority of this trade moves seamlessly. Given the sheer volume of trade, however, it is not surprising that there are a number of areas where the trading relationship can be strengthened. Several implementation, market competition, and access issues are highlighted in this submission. While we hope to see progress on these issues in bilateral and trilateral engagements, we remain committed to seeing the USMCA continued in its current form, with United States support, for 16 more years. As an additional outcome, we also hope to return to duty-free trade within North America, including sufficiently addressing the factors underlying the U.S. sectoral and across-the-board tariffs so that they can be fully removed. This is critically why it's important to re-affirm the agreement during the 2026 review, as these duties are the most important factor undermining U.S. competitiveness.

1. The Success of the USMCA: A cornerstone to U.S. competitiveness

Since its entry into force, the USMCA has reinforced North America's position as the world's most competitive economic region. Trilateral trade soared from $343 billion in 1994 under NAFTA to $1.3 trillion in 2009 and accelerated four years into USMCA to $1.84 trillion in 2024.

In 2024, the United States recorded $839.6 billion in total goods trade with Mexico and $761.8 billion with Canada, more than to the next 12 largest export markets combined. Imports from these markets provide key inputs ranging from fertilizer and critical minerals to energy and chemicals. More than half of the imports from Canada and Mexico are inputs that support U.S. manufacturing jobs and exports around the world, including back to these countries. As an example, Canada and Mexico account for 29% of U.S. agrifood exports.[3]

The U.S. runs sizable services trade surpluses with both Canada and Mexico, which support U.S. jobs and are not accounted for in traditional trade deficit calculations. These jobs span NFTC members, many of which are supported by USMCA's world-class digital rules. These digital principles enshrine priorities ranging from open data flows to algorithmic and source code protections, which are critical to defend and core to U.S. competitiveness within North America. They also establish a framework that the U.S. and like-minded countries continue to prioritize for market access around the world.

Free trade in the North American region, when fully implemented, enables the United States to compete with much larger foreign jurisdictions. The European Union has an aggregate population 30% larger than the United States, but when combined with Canada and Mexico, the North American bloc creates a 520 million-strong manufacturing and production base and a much larger internal consumer market. By competing as a bloc, with its relatively high GDP across the three countries, the region can also compete with growing regions like China and India, which each have populations exceeding 1.4 billion.

At the time of its negotiation the USMCA was framed as the gold standard of U.S. Free Trade Agreements (FTA), and it still is today. The agreement's strong labor chapter, including the development of a rapid response mechanism, its pre-eminent digital trade framework, combined with the robust rules of origin and intellectual property disciplines, build on the core principles enshrined in NAFTA. Collectively, these provisions support U.S. integration and competitiveness with its geographic neighbors, while enabling U.S. export success.

[3] https://www.fas.usda.gov/sites/default/files/2020-07/usmca_benefits-to-us-ag-2020million-strong.pdf

2. The USMCA Review: Enforcement and living up to the agreement

The inclusion of a review mechanism within the USMCA provides an important framework forcing a periodic assessment by the parties as to the status of the trading relationship and the ongoing operations of the agreement. As highlighted above, the USMCA is a critical driver of U.S. economic competitiveness, which is why it is critical to reaffirm the agreement. A cornerstone of the review, however, includes ensuring that the current obligations of the USMCA are being abided by, and efforts to secure tangible commitments by Mexico or Canada as to how they will bring themselves into compliance with existing obligations.

As one example, Mexico adopted new high-standard financial services commitments (under Chapter 17 - Annex 17-A), related to cross-border trade, including application of the national treatment and market access obligations for electronic payment services (EPS). Mexico has failed to comply with these commitments since the agreement entered into force, maintaining significant barriers to U.S. EPS suppliers that effectively prevent them from fully participating in Mexico's domestic payments market.

In section 4 under Consultation Questions of our comments, we further elaborate on compliance issues that we encourage USTR to prioritize to strengthen the implementation of the agreement. Robust enforcement mechanisms are critical to maintaining trust among USMCA partners. Binding, objective, and timely dispute resolution processes must be upheld to ensure accountability and adherence to the agreement's commitments. At the same time, the U.S. should advocate for preserving and expanding market access, particularly in sectors vital to rural economies and food security. Initiatives that promote transparency, combat corruption, and encourage digital trade cooperation will help align regulatory frameworks and strengthen economic resilience.

3. Stronger Together: Preserve the trilateral framework

The Agreement's trilateral rules are foundational. While bilateral cooperation, side letters, and other means of addressing irritants are all important, the core agreement must be preserved trilaterally. And the use of bilateral mechanisms cannot and should not be prioritized over prioritizing trilateral cooperation and outcomes. In particular, as the parties reduce the reliance on concerning sources of material inputs and financial investment, maintaining the trilateral rules of origin without adding country-specific criteria, or other forms of complex and burdensome requirements, is critical.

4. Scope and Process: Protect the good by protecting the integrity of the agreement

Protecting the key provisions and chapters that form the cornerstone of USMCA's success is paramount. To preserve this balance, NFTC urges a targeted review focused on enforcement and re-affirming the agreement. We encourage the three governments to leave the key provisions of the agreement intact, and for the review to focus on the Free Trade Commission (FTC) authorities of the USMCA. We recognize the critical role of Congress in authorizing free trade agreements. For this review, NFTC encourages USTR to confine any adjustments to those that do not open the agreement, in order to contain the review to the authorities delegated by Congress. Under Article 30, the Free Trade Commission (FTC) can consider areas to strengthen the agreement, but we encourage any use to focus on interpretive understandings, side agreements, or actions to address non-tariff irritants outside of the text of the agreement.

On this basis, NFTC submits certain recommendations in this filing to enhance the functions and operations of the USMCA. If these recommendations are not achievable through bilateral or trilateral engagement, then we prioritize maintaining the current framework over opening the agreement to potentially a broader negotiation and vote in Congress. To be clear, consistent with this, we recognize the USMCA as a Congressional-Executive trade agreement, and understand this means that changes or

upgrades that can be considered as part of the review should remain narrow and critical, so as not to undermine Congress's role nor the careful balance of equities which is critical to the success of the USMCA.

5. USMCA: The regional importance of free trade

For generations, U.S. competitiveness at home and abroad has relied upon minimizing or eliminating duties and addressing trade barriers, often through opening export markets under comprehensive free trade agreements. NFTC commends the Administration for its progress in addressing ingrained non-tariff trade barriers. This, however, must not come at the expense of U.S. competitiveness. Efforts to stimulate U.S. manufacturing risk being undermined if America's businesses cannot competitively source the critical parts, inputs, and natural resources to meet domestic needs and export these products around the world.

The United States is labor-constrained, and there are limits to the amount of manufacturing and production that can be re-domiciled. In this environment, it is critical that the United States prioritize duty-free trade with Canada and Mexico. This requires all USMCA-compliant goods to be afforded duty-free status in support of U.S. competitiveness, free from any across-the-board or sectoral tariff policies. Furthermore, USMCA non-compliant goods should also trade on a Most Favored Nation (MFN) basis, free of any additional tariffs or duties given many are inputs that will otherwise make U.S. manufacturing more expensive and exports less competitive. There are no two countries more important to U.S. competitiveness than its geographic neighbors.

As is evidenced by the majority of North American trade that was able to shift from MFN duty treatment to USMCA compliance this year, manufacturers across the region prioritize abiding by the USMCA. Certain categories of products, however, cannot meet rule of origin requirements, often for antiquated reasons that were not a priority in the NAFTA renegotiation because the normal trade rate was zero. It is critical not to leave these products subject to unnecessary tariffs, which highlights the critical importance of returning to MFN duty-free trade across North America, but in particular for these MFN zero duty products. Should this not be achievable, then the Administration should undertake a review to ensure products that cannot be sourced from North America are not penalized with unnecessary costs for U.S. manufacturers and consumers. Such products should be MFN duty-free when imported into the United States.

CONCLUSION:

USMCA is a cornerstone of U.S. trade policy. The United States should endorse continuation for another 16 years, maintain its trilateral integrity, and consider only targeted, FTC-actionable cooperation and mechanisms to ensure parties are living up to the agreement. Combined with the importance of removing U.S. sectoral tariffs, including derivatives on components and inputs imposed under Sec. 232 in the name of national security and returning to duty-free trade on an MFN basis as was negotiated in the 2020 USMCA must remain the sincere objective of this review. This process presents a true opportunity for the United States to deepen its partnership with Canada and Mexico to further develop an integrated manufacturing, economic, and national security partnership that positions North America in a manner that it can outcompete the world.

CONSULTATION QUESTIONS:

As highlighted above, the USMCA has been an extremely successful successor to NAFTA, modernizing its provisions and deepening not only the North American partnership but also acting as a catalyst for U.S. economic growth. Areas highlighted under this section are priorities for NFTC but must be viewed strictly as areas where cooperative engagement can address concerns.

1. Any aspect of the operation or implementation of the USMCA:

a. Chapter 7 - Customs Administration and Trade Facilitation:

i. **Article 7.24, Committee on Trade Facilitation:** The operation of the USMCA could be improved by enhanced public participation in the USMCA's various committees. For instance, under Article 7.24.4, the USMCA Trade Facilitation Committee "encourages" the parties to allow public participation in the Committee's work; to date, however, no meaningful attempts have been made to do so (unlike the USMCA Environment and SME Committees). Parties should prioritize and ensure public participation, as exists in other agreements, such as the U.S.-Taiwan Initiative on 21st Century Trade.

- ➢ Recommendation: Establish more proactive support and engagement between the USMCA Trade Facilitation Committee and the private sector.

b. Chapter 14 - Investor-State Dispute Settlement:

i. **Overarching and Scope:** The USMCA removed Canada from the scope of NAFTA's previous robust investor-state dispute settlement (ISDS) provisions and narrowed their application with Mexico. A significant rationale in removing and reforming ISDS is that domestic courts provide a legal pathway to adjudicate investor-related disputes. In the case of Mexico, the reformed ISDS provisions require pursuing remedies in domestic courts first or to wait 30 months before filing. Since USMCA's entry into force, however, Mexico has adopted changes to its judicial system that raise significant concerns for U.S. investors that they will be able to arbitrate and adjudicate disputes in the Mexican court system fairly. This is particularly concerning given the ongoing discriminatory treatment U.S. firms face with the nationalized state-owned energy operators, Petróleos Mexicanos (PEMEX) and Comisión Federal de Electricidad (CFE). The courts have previously been a venue for adjudicating certain measures by the state-owned energy providers, but the judicial reforms, combined with the constitutional energy amendments consolidating regulatory authorities for PEMEX and CFE, have raised significant concerns that U.S. firms will not have fair access to the Mexican energy market, and furthermore fair judicial treatment.

- ➢ Recommendation: Seek bilateral commitments or reforms from Mexico to ensure U.S. has a fair market access treatment and access to Mexico.
- ➢ Recommendation: Consider whether an interpretive side letter or means to address ISDS concerns can be achieved without re-opening USMCA.

c. Chapter 31, Annex A – United States-Mexico Facility-Specific Rapid Response Mechanism

i. **Labor rapid response transparency:** Under the Rapid Response Labor Mechanism (RRM), employers are unable to see RRM allegations against them, often only learning about the claim in the news or when the U.S. government formally requests Mexico to investigate the issue. This places affected companies, including U.S. companies, in an unfair position to learn about and respond to developments after they're in the public domain.

- ➢ Recommendation: There should be a mechanism by which companies are given a certain degree of notice prior to any public disclosure.

d. General - Committee Operations:

i. The operation of the USMCA could be improved by enhanced public participation in the USMCA's various committees. For instance, the USMCA Trade Facilitation Committee "encourages" the parties to allow public participation in the Committee's work; to date, however, no meaningful attempts have been made to do so (unlike the USMCA Environment and SME Committees).

➢ Recommendation: We encourage the parties to prioritize and fully utilize both the committee structures, and their abilities to consult and engage with the private sector.

2. Any issues of compliance with the Agreement:

a. Chapter 7 - Customs Administration and Trade Facilitation:

i. Article 7.3, Communications with traders:

- Mexico specific: As Mexico rolled out its new "General Foreign Trade Rules" in late 2024 and early 2025, it allowed for little to no input from impacted stakeholders, in disregard to Article 7.3.1. The Servicio de Administración Tributaria (SAT) officially published the rules on December 30, 2024, just two days before they were planned to take effect on January 1, 2025. A two-day window is not sufficient by international standards for stakeholder engagement, especially given the complexity and operational impact of these rules.
  - ➢ Recommendation: Reinforce for all Parties the importance of sufficient consultation and implementation windows ahead of any regulatory proposal, to obtain stakeholder feedback and sufficient implementation windows.
- Mexico specific: In accordance with Article 7.3.2, Mexico does not "maintain a mechanism to regularly communicate with traders within its territory on its procedures related to the importation, exportation, and transit of goods."
  - ➢ Recommendation: Seek commitments from Mexico to comply with Article 7.3.2 and address regulatory burden and non-compliance.

ii. Article 7.8, Express Shipments:

- It is critical in the USMCA Review that the parties preserve simple and clear procedures for e-commerce shipments and small parcel trade. The Review also provides an opportunity to assess and address compliance and operations for express entry between the parties.
- Under, Article 7.8.1(f), "no customs duties or taxes will be assessed at the time or point of importation or formal entry procedures required," and that for the United States "the fixed amount set out under the Party's law shall be at least: "(i) for the United States, US$800". Further to NFTC objectives that duty-free trade as laid out in the agreement be afforded to USMCA compliant goods, and on an MFN basis for non-compliant goods from Canada and Mexico, there is a strong rationale for efficient express entry shipment procedures, in line with the current USMCA agreement.
  - ➢ Recommendation: The three countries have an opportunity to re-assess express entry specific to North American trade, and how a streamlined and simplified process for express entry, which is consistent with country objectives, can increase efficiencies for shippers and recipients without adding unnecessary administrative costs and stress to supply chain infrastructure. It is furthermore recommended that the United States reinstate duty-free de minimis treatment for low-value express shipments from Canada and Mexico below the $800 threshold.

➢ Recommendation: If possible, within the agreement, create a tariff classification for previously purchased consumer goods to reduce barriers for the trade of used goods.

- Mexico specific: Since the USMCA's 2020 entry into force, Mexico has failed to implement USMCA article 7.8.1(f) to "allow for the periodic assessment and payment of duties and taxes applicable at the time or point of importation."
  ➢ Recommendation: Engage Mexico and secure commitments that they will implement processes to permit the payment of duties and taxes at the point of importation.

- Mexico specific: Under Article 7.8.2, "Each Party shall adopt or maintain procedures that apply fewer customs formalities than those applied under formal entry procedures, to shipments valued at less than… $2,500 for the United States and Mexico." In May 2021, Mexico raised its informal entry threshold to match this amount for express shipments. However, shipments between $1,000 and $2,500 face conflicting requirements: they cannot be consolidated, must be entered individually, and each consignee must be registered with Mexican Customs. Although the informal entry limit was increased, the importer registration requirement for shipments over $1,000 remains unchanged.
  ➢ Recommendation: Seek a commitment from Mexico to close the regulatory gap where shipments between $1,000 and $2,500 are subject to registration. The current system does not satisfy the rule's intention to simplify informal entry procedures.

- Mexico specific: Mexico's foreign trade regulations allow for the commingling of export loads to the United States from multiple customs brokers in a single vehicle. However, this rule has not been implemented, due, as we understand it, to system limitations of Mexico's national customs agency. This gap contributes to vehicle saturation, in particular at the Nuevo Laredo-Laredo border crossing, increasing congestion and costs for companies large and small importing into the U.S.
  ➢ Recommendation: Seek a commitment from Mexico that they will prioritize customs facilitation processes, including by implementing commingling of export loads from multiple customs brokers in exports to the United States.

- Canada-specific: Canada Border Services Agency (CBSA) requires a very burdensome registration process to allow customs brokers to represent importers with the Agency, along with financial security requirements, in order to release imported goods. In addition, CBSA still requires a power of attorney or agency agreement with wet-ink signature. This is in contrast to the policy of the U.S. and Mexico allowing for e-signatures, which support more efficient digital border processes. This policy does not comply with Articles 7.7.1, 7.7.2(b), and 7.9(a).
  ➢ Recommendation: Seek a commitment from Canada that they will amend domestic requirements to make all current CARM transitory measures permanent and to make other permanent modifications to undo the disruptions CARM has caused. In the same vein, Canada must allow the use of e-signatures on powers of attorney and agency agreements.

iii. Article 7.11, Transparency, Predictability, and Consistency in Customs Procedures (& Chapter 15 Annex 15-A: Delivery Services)**:**

- Mexico specific: Mexico's changes to the "General Foreign Trade Rules" has increased information and risk management requirements for registered courier companies, resulting in additional administrative burdens and higher compliance costs. Additionally, recent changes in requirements for courier companies have widened the gap with other simplified procedures such as those applicable to Mexico's postal service. This continues the market distortions affecting the sector, which goes against the intention of Article 7.11.3(b) and Chapter 15 Annex 15-A.
  - ➢ Recommendation: Seek commitments from Mexico to address these regulatory burdens and disparities between postal and non-postal operators.

iv. Article 7.20, Customs Brokers:

- Mexico specific: Mexico has established procedures to allow self-filing by importers without the services of a customs broker, which on its face satisfies the Article 7.20 requirement for the Parties to "allow an importer and any other person it deems appropriate… to self-file a customs declaration and other import transit documentation without the services of a customs broker." Self-filing in Mexico, however, requires registering as a "legal entity," which is a complex and onerous process that, in practice, necessitates the services of a customs broker to clear shipments above a certain value, violating this provision.
  - ➢ Recommendation: Seek commitments from Mexico to address regulatory burden and non-compliance.

- Mexico specific: Under Article 7.20.3, Parties shall not "impose arbitrary limits to the number of ports or locations at which a customs broker may operate." Mexico has initiated the process to remove its arbitrary limits on the number of ports where a customs broker may operate, but the effort has only been partially implemented. Most customs brokers are still limited to an arbitrary maximum of four ports or customs houses, which is contrary to the U.S. approach which allows for a national permit where a broker can operate across all U.S.
  - ➢ Recommendation: Seek commitments from Mexico to fully implement and remove the limits on how many ports a customs broker may operate.

b. Chapter 17 – Financial Services:

i. **Chapter 17, and Annex 17-A:**

- Mexico specific: Mexico adopted new high-standard Financial Services commitments related to cross-border trade, including application of the national treatment and market access obligations for electronic payment services (EPS). Since the Agreement's entry into force, Mexico has failed to comply with these commitments, maintaining significant barriers to U.S. EPS suppliers that effectively prevent them from fully participating in Mexico's domestic payments market. On October 24th, 2025, Mexico published a draft of the card payment networks regulation for public consultation.

- As published for open consultation, the draft regulation would not resolve the barriers that USTR has sought to address by enabling U.S. EPS suppliers to process domestic transactions using their own attributes and to differentiate their value proposition. The draft clearing houses regulation has not been published. These regulatory changes intend to promote financial inclusion for both individuals and businesses by providing a wider range of payment options. It would also help Mexican financial institutions introduce new payment services and enhanced fraud-prevention tools more quickly, ultimately benefiting their users.

- As Mexico is looking to modernize state-owned payments infrastructure, there is an opportunity to ensure that Mexico will maintain a level playing field in the future so that the U.S. EPS suppliers can justify expanding the export of services they offer in Mexico. Mexico's President Claudia Sheinbaum has publicly stated the intention to adopting payment infrastructure models similar to Brazil's Pix or India's UPI. Ensuring that Mexican policy does not entrench preferential treatment for its government endorsed domestic platform is critical to maintaining secure, interoperable, and competitive payment networks that benefit consumers and businesses alike. We urge the USTR to address these concerns proactively, safeguarding U.S. interests and promoting a balanced framework for electronic payments under the USMCA. Eliminating existing measures that favor domestic players and harm U.S. EPS suppliers will not be impactful if new, similar measures are later introduced in a different form.
  - ➢ Recommendation: We urge USTR to engage the Mexican Ministry of Economy closely to ensure that all final regulations facilitate interoperability among networks. Addressing interoperability will allow U.S. EPS suppliers to operate on a level playing field, specifically under their own rules and to offer value-added services. Subject to the consideration of public comments – including from the United States and U.S. stakeholders – Mexico should then implement the regulations without further delay.

c. Chapter 22 – State-Owned Enterprises and Designated Monopolies:

i. Mexico specific: The spirit of USMCA was to create a level playing field with State-Owned Enterprises (SOEs -- Pemex and CFE) – on national treatment, fair & equitable treatment, performance requirements. Unfortunately, the Mexican government has created new provisions that violate this very principle. The unlevel playing field between Mexico's SOEs and private companies is one of the four provisions that triggered the USMCA energy consultations. The erection of non-tariff barriers hinders our ability to position North America on a positive trajectory. Mexico has violated not only commitments under Chapter 22, but also Chapter 2, Article 2.3, and Chapter 14, including Articles 14.6 and 14.10.
   - ➢ Recommendation: Secure a regulatory coherence between USMCA and the latest Mexican energy counter-reforms.

ii. USMCA provisions related to procurement by government entities and State-Owned Enterprises (SOEs) are particularly important for U.S. companies operating in Mexico because Mexico is not a signatory of the WTO Government Procurement Agreement (GPA) and has a large number of SOEs. For example, the Mexican Digital Ministry must now review and approve ICT procurements by SOEs, creating an added layer of approval that could be used to discriminate against U.S. companies. Parties should refrain from reviewing and conducting a "secondary approval," or overriding a procurement decision made by an SOE. Mexico's practices appear to violate Articles 13.2, 13.6, 13.8, 13.11, and 13.13.
   - ➢ Recommendation: Seek commitments that Mexico will abide by its USMCA procurement commitments, including by ensuring CFE And Pemex are covered by these commitments.

3. Recommendations for specific actions that USTR should propose ahead of the Joint Review to promote balanced trade, new market access, and alignment on economic security with Mexico and Canada.

a. North American Energy and Resource Cooperation:

i. U.S. energy dominance relies on natural resources, such as crude oil from Canada and Mexico, critical minerals from Canada, key machinery, metals and parts, and integrated supply chains. The USMCA contains energy sector commitments that ensure equitable, non-discriminatory treatment of products and recognize the interconnected nature of North American energy resources and related supply chains. Duty-free treatment should extend beyond USMCA-qualified products to all items – but notably for this cooperative announcement – there is an opportunity to frame this as a positive outcome to the review. Given the need to balance the need for affordable energy with demand growth 17in areas like artificial intelligence, the United States must deepen its energy cooperation with its geographic neighbors. Canada, for example, has an abundance of critical minerals and rare earth elements, as well as uranium. If North American extraction and processing on a competitive basis can be fostered between parties, this will strengthen U.S. national security.

➢ Recommendation: In advance of the announcement to extend USMCA, or coupled with it, USTR should pursue robust commitments and deliverables around removing trade barriers paired with deepening energy and resource cooperation.

4. Factors affecting the investment climate in North America and in the territories of each Party, as well as the effectiveness of the USMCA in promoting investment that strengthens U.S. competitiveness, productivity, and technological leadership.

a. Chapter 2 - National Treatment and Market Access For Goods:

i. Article 2.5, Drawback and Duty Deferral Programs:

- Article 2.5 restricts the amount of refund of duty drawback, or the amount of duties deferred under the duty deferral programs to the lesser of the duties paid either at the time of admission into the first USMCA country or upon exportation and importation into the second USMCA country.

➢ Recommendation: The USMCA drawback and duty deferral continues to benefit companies conducting business across borders, which could be improved through the removal of the "lesser of two" rule.

b. Chapter 7 - Customs Administration and Trade Facilitation:

i. Mexico specific: Increased cargo theft is a critical security and safety concern spanning every NFTC member that trades in the region. We applaud USTR for prioritizing the security environment in Mexico in bilateral discussions, but cargo security needs special attention as the risks extend far beyond the border, translating into significant costs, safety risks for conveyers, supply chain disruptions, and investment risks for Mexico. These costs and disruptions affect both U.S. exports and imports, and where imports are inputs destined for further processing can lead to manufacturing disruptions.

➢ Recommendation: In addition to seeking Mexico's commitments on border security, USTR should obtain commitments from Mexico of additional resources and actionable security measures to prioritize cargo safety and theft. This cooperation could be a pillar under the recently launched U.S.-Mexico Security Implementation Group, where, as appropriate, the United States can offer technical assistance, intelligence sharing and resources to support cargo safety and security.

c. Chapter 11 – Technical Barriers to Trade:

i. Non-Discriminatory Regulatory Thresholds:

- There are several instances among North American partners and around the world where regulations establish a threshold based on revenue, number of users, or some other scale-based metric which has the effect of discriminatorily applying the provision only or predominantly to U.S. operators.

➢ Recommendation: Consider a side letter or other understanding, separate from the formal USMCA review, which has the effect of explicitly preventing the use of regulatory thresholds designed to capture U.S. companies, such as thresholds based on revenue and/or number of users. This could relate to clarifying that core trade principles of non-discrimination related to national treatment and most favored nation apply to the scoping of regulations on digital products and services. It should be clear that regulations that utilize thresholds based on factors such as number of users or revenue to narrowly cover specific companies are actionable under the agreement.

d. Civil aviation:

i. Aircraft zero-for-zero

- U.S. aerospace is vital for innovation and economic growth, but it also supports U.S. national security. North America is a global leader in civil aviation manufacturing, in part, due to the zero-for-zero tariff environment provided by the Agreement on Trade in Civil Aircraft (ATCA) or most favored nation (MFN) status. Canada is a member of the ATCA, whereas Mexico has traditionally adhered to the agreement but is not a member. The zero tariff environment for civil aircraft has led to a consistently positive U.S. trade surplus, job creation, workforce development, investment, and global competitiveness for the U.S. industry.
  - ➢ Recommendation: We encourage the Administration to recommit to duty-free treatment, including for civil aircraft and their parts, in the USMCA Review. In addition, Mexico should be encouraged to join the ATCA as part of the Review. which has been prioritized in recent reciprocal trade deals.

5. Strategies for strengthening North American economic security and competitiveness, including collaborative work under the Competitiveness Committee, and cooperation on issues related to non-market policies and practices of other countries.

a. Strengthening Economic Security:

- In recent years, Canada and Mexico have enacted significant measures to increase security against import risks. These measures particularly target state-driven overproduction and national security concerns from certain non-market economies. For example, Canada has enacted measures to safeguard its market from steel, aluminum, and automotive overproduction from China and strengthened the Investment Canada Act (its version of the Committee on Foreign Investment the US (CFIUS)) to safeguard its industry and natural resources, including critical minerals. Mexico enacted protections on steel and apparel and are advancing other mechanisms for heightened tariffs to mitigate perceived threats from certain non-FTA countries.
- We recommend bolstering cooperation and measures to promote alignment on export controls, sanctions, investment security review, and other national security tools external to the USMCA to ensure Canada and Mexico mirror and support U.S. safeguards on sensitive technologies from adversarial access. Parties should seek to align substantive and procedural aspects of their economic security and technology control regimes; improve government-to-government information sharing; and develop advance warning mechanisms. This can and should also include cooperation with a broader set of allies, including across plurilateral fora.

- ➢ Recommendation: Consider mechanisms to address both national and economic security risks in a coordinated fashion. Further develop measures to mitigate risks from non-market economy subsidization and oversupply on a cooperative basis. This should be prioritized separately, rather than embedding new language within the agreement. In particular, we recommend against complicating rules of origin requirements to address these issues. To be clear, we do not recommend prohibitions on investments or inputs. Further, we oppose the application of any "foreign entity of concern" or "foreign adversary" provisions or designations in the agreement.

b. Chapter 4 - Rules of Origin:

i. General:

- NFTC recognizes the importance of ensuring the USMCA rules of origin (ROO) support and stimulate significant North American manufacturing, in particular, in the United States. The application of tariffs on USMCA non-conforming goods and Section 232 sectoral tariffs highlights the critical importance of:
  - ensuring industry can meet existing USMCA rules of origin requirements;
  - exercising extreme caution to ensure U.S. competitiveness is not undermined due to stricter rules; and
  - the importance of removing tariffs and countermeasures on North American trade.
- Failure to do so will have a deleterious effect on USMCA trade, and U.S. competitiveness by extension, by:
  - reducing the amount of preferential trade;
  - reducing the amount of total trade if MFN trade is more costly; and
  - adding red tape at the border since certification of origin becomes more complex.
- We recognize and respect the fact that significant aspects of USMCA rules of origin, ranging from definitions to certification requirements, are codified in statute. Given this, and our topline objective to limit changes to the agreement, it is important that the U.S. accept MFN trade for non-conforming goods within North America, given that in many cases the rules cannot be met due to antiquated rules requirements (e.g., where an input cannot be sourced in one of the three countries), yet the manufacturing is adding significant value creation and jobs, in particular for the United States.
- With regard to non-market policies and practices of certain other countries, we continue to believe that the three countries should enhance government-to-government collaboration and coordination to jointly counter distorting or malign influence, but this should be managed external to the USMCA, and where appropriate in cooperation with additional allies and like-minded trading partners. Imposing requirements to certify origin across all of commerce and throughout a products' supply chain is unworkable and excessively burdensome, which will only depress trade, and lead to unintended consequences. Complicating the USMCA ROO risks overburdening manufacturers, discouraging North American Trade, and undermines the purpose of USMCA, which is to strengthen regional integration and supply chain resilience.
  - ➢ Recommendations:
    - ➢ Preserve current, practical ROO. Preserve the reliance on tariff shift-based rules and maintain incentives for cross-border manufacturing.
    - ➢ Avoid domestic or onerous value content thresholds. Adding complexity to ROO risks undermining North American integration, competitiveness, and the strength of the USMCA.

- Prioritize acceptance of MFN so that outdated rules of origin do not unnecessarily burden manufacturing and necessitate updates to outdated and antiquated tariff shift requirements.
- Preserve Articles 4.12.1 and 4.12.3 (*De Minimis*) ten percent threshold for the value of non-originating content that does need to undergo an applicable change in tariff classification set out in Annex 4-B (Product-Specific Rules of Origin).
- Notwithstanding our strong preference to avoid any rules changes, should there be consideration of any changes, in particular to remove or reduce the de minimis percentage or apply restrictions on sourcing, such changes should not occur for at least 5 years and be subject to a joint and comprehensive study to support the change as well as the realities and ability to alternatively source within North America and the United States.

ii. Automotive ROO:

- The USMCA automotive rules of origin are some of the most complex and ambitious rules of any trade framework globally. The rules ensure that North American-manufactured vehicles generate significant jobs and value for the United States, Canada, and Mexico. Furthermore, the addition of core parts, regional value, labor value, and steel and aluminum requirements collectively safeguard the significant economic value of auto manufacturing, particularly for the United States.
- Embedding such ambitious and aggressive targets in the USMCA has been extremely challenging for the automotive sector to achieve, notwithstanding their significant efforts and commitment to do so. This is why the sector was afforded alternate staging regimes to meet the escalating requirements, which have still not all entered into force (e.g., melt and pour for steel is set to take effect in 2027).
- These transformations are not only complex but re-developing supply chains to meet the overlapping requirements comes at a tremendous cost, which is why it is critical to exercise extreme caution in the review in order to avoid burdening the industry with new costs. We urge against any additional changes at this stage, but, if any are considered, significant flexibility and phase in timelines would be necessary to ensure the sector is not burdened with additional costs that will undermine their competitiveness in North America, and in pursuing export opportunities.
- While the automotive industry generates significant economic benefits for the region, they come at a cost. Compliance with strict automotive rules, coupled with high labor costs and tariffs on key parts and components, means that U.S. competitiveness vis-à-vis other global auto-manufacturing regions has been undermined. While protections exist and should persist to avoid China from flooding the market, Korea, Japan, and the EU can outcompete the United States, despite their 15% tariff due to the complex rules framework and import tariffs on components, which risks incentivizing overseas manufacturing over American. For these reasons, the industry cannot bear additional complexity and costs with more stringent rules.
  - Recommendations:
    - Preserve current ROO. In recognizing that the agreement is only five years old, and the significant costs and burdens to automotive competitiveness in changing its ROO, support extension of the agreement while keeping the rules consistent.
    - Exercise extreme caution in considering any changes to the automotive rules of origin, and prioritize competitiveness of the sector, including duty free trade for USMCA conforming products, and separate mechanisms to address oversupply from non-market economies, over ratcheting up new requirements.
    - If there is to be any decision to change automotive ROO, implementation flexibilities are required as existed when the USMCA superseded NAFTA.

c. Chapter 5 – Origin Procedures:

i. Article 5.9: Origin Verification:

- Under Article 5.9, the importing Party's customs authority has broad discretion to conduct origin verifications and make determinations on preference. However, recent application of this authority by the Mexican government has raised serious concerns among U.S. companies. The origin verification questionnaire currently used by Mexican customs is exceptionally expansive, intrusive, and onerous for U.S. exporters—requiring the submission of trade secrets, highly sensitive cost and supplier information, and third-party proprietary data, all within compressed timelines and under legal liability. While Mexico has the right to verify origin, the scope and depth of these requests impose disproportionate compliance burdens that go beyond standard USMCA verification practices and create significant confidentiality, competitive, and legal risks for U.S. companies.

d. Chapter 12 – Sectoral Annexes:

i. Annex 12-E (Medical Devices):

- Strengthen implementation by increasing reliance on international regulatory body authorizations, including those from the U.S. Food and Drug Administration (FDA), as sufficient evidence that a medical device meets the requirements for marketing authorization in each country, without additional requirements.
- Address the backlog of MedTech market authorization submissions – potentially through the establishment of and adherence to specific trilateral metrics – facilitated through the regulatory cooperation mechanisms.
- Certain medical devices and medical equipment, in particular from China or a few other Asian economies, are being imported without proper registration and disrupting the North American market.
  - ➢ Recommendation: The parties should ensure they are enforcing proper registration of medical devices and ensure import requirements are aligned and adhered to.
- Companies are experiencing significant regulatory approval delays. While we have seen some improvements to approval timelines, decreasing from 24 months to closer to 12 months, we would like to see Comisión Federal para la Protección contra Riesgos Sanitarios (COFEPRIS) adhering to its own regulatory timeframe of up to 3 months.
  - ➢ Recommendations: Seek outcomes where Mexico will 1) implement "Jornadas de atención para trámites pendientes" in alignment with FDA and Health Canada equivalence agreements; 2) extend the validity of licenses from 5 to 10 years; and 3)Allocate additional resources to support the full digitalization of medical device registration data.

e. Chapter 17 – Financial Services:

i. Article 17.17

- Financial Services Provisions: The USMCA review should consider interpretive understandings beyond Article 17.17 that will avoid unnecessary requirements that may result in de facto or de jure data localization and ensure the free flow of financial data and information across borders. This would enable financial institutions to leverage the best options available on cloud computing, data analytics, and other digital technologies.
  - ➢ Recommendations:

- Regulatory Cooperation and Information Sharing: The chapter could include provisions for enhanced regulatory cooperation and information sharing on emerging financial technologies and cybersecurity threats. This could facilitate joint efforts to develop appropriate supervisory practices.
- FinTech Working Group: Forming a dedicated USMCA Fintech Working Group under the Financial Services Committee to coordinate on issues related to digital financial services, standards, and best practices could help align the regulatory approaches of the three countries.

f. Chapter 19 – Digital Trade:

i. Artificial intelligence:

- In the five years since USMCA has entered into force, countries and their workforces have been consumed by the prevalence and transformative potential of generative artificial intelligence and large-language models. While principles have been widely adopted by countries, the USMCA makes no specific reference to AI. In many respects however, the USMCA digital provisions continue to be fit for purpose in most respects, with provisions protecting cross-border data flows, algorithmic and source code protections, and data localization prohibitions.
  - Recommendation: Parties should consider an AI side agreement which references and acknowledges USMCA digital provisions applicability for generative AI, and could potentially include elements such as support for standards, definitions and nomenclature, and mutual recognition of any regulatory oversight. If written correctly, as is the case with the current digital chapter, this annex may not only guide AI's uses in North America but also create a framework that can be advocated collectively to third markets.

ii. Digital Services Taxes:

- Ensure Canada's digital services tax is repealed and seek commitments from Canada and Mexico that they will not introduce new digital taxation measures.

iii. Cybersecurity and Trusted Technology:

- Given the increasing concern and rulemaking to address cybersecurity-based threats, there is significant risk of market access barriers, either intentional or unintentional. The parties could consider a cyber side agreement, which could address:
  - Non-Discriminatory Cybersecurity Certification Standards: Commitment to non-discriminatory cybersecurity certification standards and measures. This would address the increasingly prevalent trend of governments using cybersecurity measures as a means to discriminate against non-domestic digital/cloud service providers. These types of policies prevent governments and consumers from having access to the best-in-class services available on the market and serve to undermine cybersecurity broadly.
  - Harmonized Cybersecurity Standards and Frameworks: The side agreement should mandate adoption of common cybersecurity frameworks like NIST or ISO across sectors. This would provide a consistent set of standards for businesses operating in all three countries, reducing the need to comply with divergent national regulations.

- Harmonized Cybersecurity Certifications: Provisions mandating one set of cybersecurity certifications across the USMCA region would eliminate duplicative compliance costs for businesses. For example, there are a few key differences between the US Cybersecurity Maturity Model Certification and Canada's developing Canadian Program for Cyber Security Certification. The actual security controls implemented differ due to using different versions of the NIST standard. This creates potential challenges for companies operating in both markets, as they may need to navigate slightly different requirements and processes to achieve certification in each country.
- Public-Private Cybersecurity Cooperation Mechanisms: The side agreement could establish formal mechanisms for industry and governments to collaborate on cybersecurity policies, best practices, and threat information sharing relevant for cross-border business operations.
- This could also include provisions beyond cybersecurity to include trusted technology for network security and vendors, to address concerns from non-market economies. The side agreement could include requirements on IP, foreign government control, respect for intellectual property, etc., but it's scope and applicability would need to ensure it targets only legitimate security vectors and does not widely disrupt key inputs or supply.
- Committee on Digital Trade: Establish a mechanism on the margins of the agreement for the three Parties to exchange information, coordinate on new regulatory approaches for digital issues, and address issues of concern.

ANNEX 1 – BILATERAL COMMENTS AND ISSUES:

1. Canada - Bilateral Comments and Issues

a. Canada's Online Streaming Act (Bill C-11): The Online Streaming Act, which entered into force in April 2023, updated Canada's Broadcasting Act to regulate online streaming services and provided discretion to the Canadian Radio-television and Telecommunications Commission (CRTC) on how to implement it. On June 4, 2024, the CRTC issued a decision to require foreign, largely U.S.-based music and audiovisual streaming service providers to pay 5% of their gross in-country revenue to certain Canadian cultural funds. In addition to the levy, the CRTC is designing additional discriminatory measures that target U.S. companies, including local content quotas and content discoverability mandates. The CRTC may also increase the financial levy to as high as 30%. In total, the Online Streaming Act could cost the U.S. industry $7 billion by 2030. This measure appears to be offside USMCA obligations and sets a concerning precedence in its scope and cost on the industry, as well as its potential to undermine the objectives of supporting and amplifying Canadian content. The measure is likely to contravene Canada's national treatment and market-access obligations under USMCA's Cross-Border Trade in Services (Chapter 15) and Digital Trade (Chapter 19) provisions, as well as WTO obligations under the GATS. While under USMCA, Canada can invoke the cultural exemption under Article 32.6 to defend such measures, that provision also allows the United States to adopt measures of equivalent commercial effect in retaliation.

➢ Recommendation: Seek the repeal of Bill C-11.

b. **Quebec Bill 109:** Québec's Minister of Culture et des Communications introduced Bill 109, *An Act to affirm the cultural sovereignty of Québec and to enact the Act respecting the discoverability of French-language cultural content in the digital environment*, in Q2 2025. The Bill's stated purpose is to promote discoverability of and access to original French-language cultural content in the digital environment. It will have major implications for U.S.-based streaming companies, as well as manufacturers of connected devices. It grants broad authority to the Québec Cabinet to enact regulations that will impose new registration requirements, reporting and potential French content quotas, accessibility and discoverability requirements on digital platforms and manufacturers of TVs and connected devices. It also creates a new administrative unit within the Ministère de la Culture et des Communications under the name "Bureau de la découvrabilité des contenus culturels" (the BDCC) and gives the BDCC broad powers to enforce the bill. The measure is likely to contravene Canada's national treatment and market-access obligations under USMCA's Cross-Border Trade in Services (Chapter 15) and Digital Trade (Chapter 19) provisions, as well as WTO obligations under the GATS. While Canada can invoke the cultural exemption under USMCA Article 32.6 to defend such measures, that provision also allows the United States to adopt measures of equivalent commercial effect in retaliation.

➢ Recommendation: Monitor bill 109 and engage Canada and Quebec on concerns in the proposed legislation.

c. **Canada Border Services Agency's Assessment Revenue Management System (CARM):** Prior to its implementation, NFTC and member companies raised significant concerns regarding CARM and CBSA's preparedness to implement. While the program was delayed, it was ultimately brought into force with significant issues and challenges to trade facilitation remaining, which are impacting commerce. CARM's objectives to incentivize compliance with customs regulations do not balance this concern with the requirement to minimize costs for importers and exporters. CARM registrations remain very low today. For example, all commercial importers, regardless of their size or the value of their imports, are required to complete an onerous registration process and post a bond before their goods are released. This is neither efficient nor a cost-effective way to securely move goods across international borders. In addition, flexibilities from CBSA's FIRM report have been eliminated, with importers no longer

able to make blanket corrections adding to the regulatory and paper burden and complexity.

- ➢ Recommendation: Obtain commitments from Canada that they will dedicate additional resources to CBSA to operationalize CARM effectively and efficiently, and to work with the private sector, in particular major logistics, commerce, and freight operators, to amend CARM requirements permanently in order to mitigate the disruptions caused by CARM, lower compliance costs and improve its supply chain efficiency. Such ARM changes include restoring the ability to make blanket scalable corrections to customs entries and for customs brokers to serve as the importer in certain limited situations.

d. **U.S.-Canada Preclearance:** Consider measures to expand preclearance programs, which could enhance supply chain security among trusted trade partners while simultaneously increasing the efficiency of movement and reduce overall costs for operators and end-use customers.

- ➢ Recommendation: Explore opportunities to deepen preclearance measures, in cost-effective ways, including by aligning hours of service or customs inspection procedures.

e. **Unfair Government Procurement Practices:** While Canada is not bound by the USMCA government procurement chapter, recent procurement practices unfairly discriminate against U.S. bidders in areas ranging from healthcare to IT. These actions appear to contravene Canada's WTO GPA obligations. For example, there are mounting concerns of unfair treatment and discrimination against U.S. tenders, including domestic preferences for locally produced vaccines, local preferences in provincial procurements, and emerging transparency and fairness risks in procurement processes.

- ➢ Recommendation: The U.S. should engage Canada to ensure it is adhering to its WTO/GPA commitments. Additionally, for more effective implementation and enforcement of Government Procurement commitments, as well as more effective three-party coordination on government procurement access issues of common interest (including on countries outside North America), Canada should, if it can be accomplished without legally opening the agreement, be brought into the agreement's existing Chapter 13 government procurement rights and obligations, based on Canada's existing procurement commitments with the two other Parties in other agreements (with the U.S. in the WTO/GPA and with Mexico in the CPTPP agreement).

f. **Intellectual Property: Inadequate patent term restoration:** Canada does not provide restoration mechanisms that are consistent with USMCA commitments.

Under Article 20.44, the USMCA requires Canada to provide patent term adjustment (PTA) for unreasonable delays during the prosecution and issuance of any patent. However, Canada has created a PTA framework which includes inequitable barriers that constructively undermine the treaty provision, and which will prevent American patent holders from obtaining compensation for unreasonable delays. The process to apply for PTA is burdensome, costly, and creates significant market uncertainty. Canadian patent holders do not face these burdens or lack of adequate adjustment in the United States.

After consultation where industry's recommendations were largely ignored by Canada, the new system has come into force in January 2025.

- ➢ Recommendation: USTR should encourage the Canadian government to provide up to 5 years of patent term restoration that runs consecutively with patent term adjustment instead of concurrently.

g. **Intellectual Property - Weak patent enforcement**: The Canadian Patented Medicines (Notice of Compliance) Regulations (the "PM(NOC) Regulations") include several key deficiencies that weaken Canada's enforcement of patents, including excessive and windfall damage awards to generic litigants, and limitations and inequitable eligibility requirements on the listing of patents

in the Patent Register. Jurisprudence under the PM(NOC) Regulations has also resulted in a heightened level of liability for patent owners akin to punitive damages. PhRMA and its member companies continue to be troubled that Canada has used implementation of the Canada-EU Comprehensive Economic and Trade Agreement (CETA) to implement reforms not required by that Agreement, which expose innovators to even greater potential liability under Section 8 of the PM(NOC) Regulations.

h. **Confidential Business Information - Standard for Disclosure:** Provisions in Canada's Food and Drugs Act, codified in Bill C-17 of 2014, grant the Health Minister discretion to disclose a company's CBI without notice to the owner of the CBI. This is inconsistent with Canada's obligations under Article 20.71 and Article 20.66 of the USMCA, which requires that CBI be protected against disclosure except where necessary to protect the public. Under Canadian law, there is not a threshold of serious risk of injury to justify the disclosure; rather the provisions merely require that the Minister believes the disclosure to be necessary. The Act allows the Minister to disclose CBI to individuals involved in "the protection or promotion of human health or safety of the public," though there is no necessity requirement for this disclosure to occur. USMCA does not refer to disclosure for the promotion of health, but rather to disclosure needed to protect the health of the public.

   ➢ Recommendation: The Canadian government should ensure that the regulations and guideline documents to implement the Food and Drugs Act are consistent with Canada's USMCA obligations on confidential business information.

i. **Market Access Barriers: Artificial devaluation of innovative medicines & regulatory delays:** The Patented Medicines Prices Review Board (PMPRB) sets maximum prices for all patented medicines sold to public or private payers by referencing prices in other countries. In 2021, Canada removed the United States and Switzerland from the reference basket of countries to ensure that it referenced more countries with lower incomes and drug prices.

   Additionally, it takes approximately two years following regulatory approval for a medicine to reach patients insured on public drug plans. This is due to lengthy sequential administrative processes and federal-provincial pricing negotiations through the pan-Canadian Pharmaceutical Alliance (pCPA) before individual jurisdictional funding agreements.

   ➢ Recommendation(s): 1) Sunset the PMPRB, or put the U.S. back in the reference country basket and continue to apply the PMPRB International Price Comparison Test using the Highest International Price standard; 2) Reduce regulatory steps between national assessments and inclusion on public formularies of provinces and territories to accelerate patient access; 3) Create Accelerated Access Pathway for new innovative medicines; 4) Ensure pCPA recognizes the value of innovation and reflects this in pricing decisions.

2. Mexico - Bilateral Comments and Issues

a. **Cargo Security:** The high levels of cargo theft are a critical security and safety concern spanning every NFTC member that trades in the region. The security environment in Mexico is being prioritized in bilateral discussions, but cargo security needs special attention as the risks extend far beyond the border, translating into significant costs, supply chain disruptions, and investment risks for Mexico. These costs and disruptions affect both U.S. exports and imports, and where imports are inputs destined for further processing can lead to manufacturing disruptions.

   ➢ Recommendation: In addition to Mexico's commitments on border security that are being prioritized in bilateral negotiations, obtain commitments from Mexico of additional resources and actionable security measures to prioritize cargo safety and theft. This

cooperation could be a pillar under the recently launched U.S.-Mexico Security Implementation Group, where, as appropriate, the United States can offer technical assistance, intelligence sharing and resources to support cargo safety and security.

b. **Customs facilitation:** In establishing the Agencia Nacional de Aduanas de Mexico (ANAM) as an independent customs agency separate from its tax authority, Servicio de Administracion Tributaria (SAT), industry and freight operators are experiencing significant clearance delays at the U.S.-Mexico. In 2022, career customs officials have been replaced with military personnel who are not experts in trade facilitation and created a fragmented border clearance with responsibilities diffused between the Army at land ports, the Navy at seaports, and the Air Force and private actors at airports. As a result, in 2025, industry is experiencing significant pain points in cargo movements, and technical and regulatory challenges in the coordination between SAT and ANAM.

   ➢ Recommendation: Encourage Mexico to continue to invest in ANAM reforms and to work with U.S. counterparts and the private sector to improve its operations and the efficient clearance of goods.

c. **Mexico's Barriers for Cloud in Financial Services:** Mexico continues to enforce a 2021 regulation which requires electronic payment fund institutions to maintain a business continuity plan in the case of disaster recovery that relies on either 1) a multi-cloud approach with at least two cloud service providers from two different jurisdictions, or 2) an on-premise data center in country that doesn't depend on the primary (foreign) cloud provider. The approvals process run by the National Banking and Securities Commission that is required for financial services companies to use cloud services is resource intensive and is discriminatory towards foreign cloud providers, whereas existing local on-premises data centers need to complete a shorter notification process. This de facto data localization requirement is in addition to an already complex and time-consuming process that electronic payment fund institutions face in order to gain regulatory approval to use offshore cloud infrastructure whereas in country infrastructure enjoys a more expedited process. The United States has raised concerns with the Mexican government that the requirements relating to use of cloud service suppliers by electronic payment fund institutions have a negative competitive impact on the business of U.S. service suppliers.

   ➢ Recommendation: Continue to raise and seek flexibilities to improve cloud accessibility, operations and to reduce onerous and discriminatory provisions.

d. **Mexico's "Kill-switch" and Article 30-B in the 2026 Economic Package:** A proposal in Mexico's Economic Package would require digital service providers to grant the Tax Administration Service (the Servicio de Administración Tributaria or SAT) permanent, real-time online access to their systems and records related to operations in Mexico. Mexico's Senate passed the 2026 Economic Package in October 2025, including Article 30B (kill switch), and the tax is set to take effect April 1, 2026, pending publication in Mexico's Official Gazette later this year.

   Non-compliance could result in the temporary blocking of digital – widely referred to as the "kill-switch" - as outlined under the Value-Added Tax Law (LIVA). Additionally, the SAT would coordinate with the newly created National Agency for Digital Transformation and Telecommunications to manage the technological infrastructure and data analysis associated with this obligation. These authorities have stated that the intention of this proposal is to capture Chinese e-commerce companies, but the language is broad and captures all providers. Both the new provision and the existing "kill-switch" provision raise serious concerns regarding Mexico's USMCA commitments. These measures would create extreme risks for U.S. firms, threatening the security of user data, proprietary intellectual property, and trade secrets, while placing companies in an impossible conflict with U.S. and global data privacy laws. USTR

should seek assurances that the "kill switch" mechanism will not be activated, as its use would raise immediate USMCA compliance concerns.

➢ Recommendation: On an urgent basis, USTR should seek clarification on the scope/implementation, and obtain assurances that the "kill switch" will not be activated, as its use would raise significant market access risks and immediate USMCA compliance concerns.

e. **Mexico Authorized Economic Operator:** Currently, the government of Mexico operates a supply chain security program called the Authorized Economic Operator (AEO), administered by the Tax Administration Service (SAT). Designed to align with the U.S. Customs Trade Partnership Against Terrorism (CTPAT) and follow World Customs Organization best practices, the AEO strengthens international logistics security, particularly against threats such as terrorism, smuggling, and other risks. It has become an important certification regime for U.S. companies exporting across the U.S. and Mexican borders. However, the government of Mexico is considering a proposed Amendment to the Customs Law (Article 100-C) that would allow authorities to revoke AEO certification for minor and administrative infractions and bar companies from future reauthorization for those minor infractions. From a legal and trade policy perspective, this measure appears disproportionate, especially considering the nature of administrative infractions, which may not involve intentional misconduct or pose a threat to national security.

➢ Recommendation: The U.S. government should engage Mexico on this rulemaking to ensure the law does not pass or does not create a market access barrier.

f. **Facilitate Investor and Taxation Protections, Transparency, and Due Process in Mexico**: Especially given recent constitutional changes that weaken the independence of the judiciary and independent regulatory agencies in Mexico, Canada and the United States should engage Mexico to ensure the Mexican Tax Service (SAT) and related agencies do not target multinational companies with unreasonable tax audits, assessments and other regulatory practices. While tax disputes are expected, U.S. companies have been assessed unreasonable tax charges, often based on new audits of previously closed tax filings. Moreover, anticipated reform to the Código Fiscal de la Federación (CFF) could result in a critical change to the dispute resolution process, whereby U.S. companies will be required to pay a "deposit" equivalent to the amount of the tax assessment in order to file an administrative appeal. The targeting of U.S. companies along with a "pay-to-play" change to the dispute process, suggests that some of these tax assessments are not based on a principled application of Mexican accounting or tax rules, but rather are an attempt to extract additional corporate tax revenue from American companies. Mexico continues to establish several discriminatory tax proposals, notably:

- SAT' has decided to reinterpret Mexico's Value Added Tax (VAT) law retroactively. SAT's new approach denies companies the ability to claim tax credits for VAT amounts included in claims paid to third party suppliers, even though this practice was previously permissible and well accepted by SAT. SAT's retroactive application of the law, extending back to 2015, has led to demands for repayment of previously refunded tax credits and the imposition of fines and interest on U.S. and global companies that had complied with long-accepted practices recognized by SAT.
- Several companies have reported VAT double taxation issues. SAT has asserted that, in addition to already-paid import VAT under Mexico's IMMEX virtual export program, companies must also pay input VAT on the same transaction, thereby constituting double taxation. These developments raise serious concerns for U.S. and global companies relying on IMMEX as a component of their North American manufacturing strategy.

- Mexico is also considering a significant increase in its Special Tax on Production and Services (IEPS) on beverages, including those made with high-fructose corn syrup (HFCS). Mexico is the largest importer of U.S.-produced HFCS, with Canada second, and Mexican beverage production depends heavily on these imports. In recent years, HFCS exports to Mexico have grown in both volume and importance, making them a key element of the North American trade relationship. The proposed IEPS hike would likely reduce imports, undermining market access—a core pillar of the USMCA. This case illustrates how domestic policy shifts can unintentionally disrupt trade, with further examples noted below. Our members remain committed to a strong USMCA that fosters shared prosperity and regional competitiveness while respecting each nation's domestic policy decisions.

  ➢ Recommendations: The U.S. Government must seek commitments that SAT, and other Mexican regulatory bodies, will not unfairly or extralegally target U.S. companies in a discriminatory and arbitrary manner.

g. **Mexico's Abrupt Customs Changes:** Mexico routinely makes major changes to its customs rules with no implementation period, which creates operational disruptions. Mexico should adhere to good regulatory practices in customs, including by providing notice and comment periods before making changes its customs rules and providing longer implementation periods before these changes enter into force.

h. **Mexico's Customs Valuation Methods:** Mexico has instituted the use of reference prices for several product types rather than standard valuation methods, which results in importers having to declare artificially high customs values for these products. Mexico should recommit to standard valuation rules and address perceived dumping through anti-dumping investigations.

i. **Intellectual Property: Lack of implementing regulations and patent linkage:** The Mexican Institute of Industrial Property (IMPI) has not yet issued the necessary regulations to implement key provisions of the Federal Law for the Protection of Industrial Property (LFPPI), such as patent linkage. Additionally, recent court precedents have undermined patent usage by preventing their publication in the linkage gazette. All of these issues are in direct violation of Mexico's IP commitments under the USMCA. As a result, COFEPRIS has issued numerous marketing authorizations for generic versions of patented protected products, occurring at least 10 times in 2023 and 2024 alone (PhRMA, 2025). This harms innovation and allows generics in China to take market share away from U.S. companies operating in Mexico.

   ➢ Recommendation: USTR should continue to encourage the Mexican government to implement USMCA requirements to create and enforce patent linkage, using FDA's Orange Book system as a model. This should include nullifying marketing authorizations for generic/biosimilar versions of patent protected products.

j. **Intellectual Property: Lifting injunctions without sufficient legal justification**: The Mexican government, including IMPI, has adopted the practice of lifting injunctions against products that infringe industrial property rights under the justification of access to medicines and the right to health. Although the protection of public health is a constitutional principle, this practice affects legal certainty and the protection of industrial property rights. The right to health cannot be interpreted absolutely when it affects constitutionally protected industrial property rights – fundamental rights must be harmonized and are not mutually exclusive. This goes against what is stipulated in USMCA articles 20.78.1, 20.78.2, 20.81.2, 20.82.1 and 20.82.2.

   ➢ Recommendation: USTR should urge the Mexican government to ensure preliminary injunctions remain valid and are not lifted unless compelling evidence of lack of access and/or non-infringing evidence is filed by the defendant

k. **Public Procurement System Changes and Offset Requirements:** Since 2018, Mexico has made frequent and non-transparent changes to its public procurement system, often with unreasonable implementation timelines. These changes have rendered the system confusing and lacking in due process, creating substantial market access barriers that lead to supply chain challenges and product shortages. These modifications could also lead to increased use of procurements with limited tenders, in violation of Mexico's commitment to open tendering procedures in Chapter 13 of the USMCA (Article 13.4.4). In addition to these numerous changes to government procurement rules for medicines, the Mexican government issued a decree in June 2025 linking public sector pharmaceutical purchases to domestic production and/or investment. This policy, commonly referred to as an offset or performance requirement, also introduced a points-and-percentages system for evaluating bids in public tenders. This is inconsistent with several of its USMCA obligations, including a) Article 13.4.6 that prohibits offsets in covered procurement, including any requirement related to local content, production, investment, or technology transfer and b) Article 13.4.1 that reinforces the provision of national treatment.

   ➢ Recommendation: USTR should urge the Mexican government to categorically exclude U.S. and other international suppliers and products from any offset obligation, in compliance with USMCA obligations for procurement. In general, it should provide more clarity on its procurement process and requirements and allow for appropriate lead times when changes are made so companies can ensure supply continuity.

l. **Delays in Regulatory Approval and Market Access**: Under Mexican law, products approved by the FDA, should receive an expediated review by COFEPRIS within 90 days. COFEPRIS has been inconsistent in its use of this review pathway, resulting in long approval delays that prevent market access. These delays are inconsistent with Annex 12-F of the United States-Mexico-Canada Agreement (USMCA) which notes that "[e]ach party shall administer its marketing authorizations reasonably, including by…providing an applicant that requests marketing authorization for a pharmaceutical product with a determination within a reasonable period of time." This amounts to an unfair trade practice that prevents U.S. manufacturers from selling in the Mexican market.

   ➢ Recommendation: USTR should urge to Mexican government to implement regulatory reliance mechanisms that ensure FDA-approved products receive expediated review from COFEPRIS, in line with Mexican law and USMCA obligations.