

June 12, 2017

Honorable Robert E. Lighthizer
United States Trade Representative
600 17th St NW
Washington, DC 20006

Re: Alliance for American Manufacturing (AAM) Comments on Negotiating Objectives Regarding Modernization of North American Free Trade Agreement with Canada and Mexico [Docket Number USTR-2017-0006]

Dear Ambassador Lighthizer:

In view of its unique position representing the interests of both American workers and U.S. companies, the Alliance for American Manufacturing (AAM) is pleased to submit the following comments in response to the United States Trade Representative's (USTR) May 23, 2017 request for comment on "Negotiating Objectives Regarding Modernization of North American Free Trade Agreement with Canada and Mexico." We view this negotiation as an opportunity to enhance North American competitiveness and create American jobs.

About AAM

AAM is a non-profit, non-partisan partnership formed in 2007 by some of America's leading manufacturers and the United Steelworkers. Our mission is to strengthen American manufacturing and create new private-sector jobs through smart public policies. We believe that an innovative and growing manufacturing base is vital to America's economic and national security, as well as to providing good jobs for future generations. AAM achieves its mission through research, public education, advocacy, strategic communications, and coalition building around the issues that matter most to America's manufacturers and workers.

Background

The North American Free Trade Agreement (NAFTA) between Canada, Mexico, and the United States has been in effect since 1994. Since that time, a wave of state-driven competition from Asia, new technologies, and deficiencies in the original agreement have dramatically shifted the playing field for American manufacturing workers. While exports have outperformed imports under NAFTA in some manufacturing categories, our overall non-oil goods trade deficit with Mexico has ballooned from \$7.8 billion in 1997 to \$74.6 billion in 2016. At the same time, downward pressure on manufacturing wages for workers in all three nations have prevented any benefits from NAFTA from being more broadly shared.

NAFTA should be renegotiated, modernized, reformed, and made more fair. We are pleased the Administration intends to do so, and we hope the negotiators will address the following AAM priorities. We believe the goals of a new agreement must include:

1. Strengthening the relative global competitiveness and market shares of each of the NAFTA nations;
2. Achieving more balance and fairness in intra-NAFTA trade;
3. Boosting the global demand for NAFTA-made manufactured goods;
4. Increasing the wages of North American manufacturing workers; and
5. Setting state-of-the-art trade agreement standards.

Rules of Origin

A trade agreement's rules of origin determine the national source of a product. This is important in the context of NAFTA because only those countries bearing the risks and responsibilities of signing an agreement should obtain its benefits. For example, NAFTA currently includes an automobile rule of origin of 62.5 percent. While we believe the NAFTA rule of origin on automobiles should be phased in over time to a higher level so that workers in signatory countries can enjoy more of the benefits, we must also update the regional value content rules regarding traced materials to maximize these benefits. Under current NAFTA rules, steel is not a traced material, although many traced materials are steel-intensive. Updating these rules to ensure the use of North American steel in steel-intensive traced materials could stimulate manufacturing in all NAFTA countries, while minimizing the advantages to non-participating nations. Automobiles, auto parts, and the steel used in their production, from countries such as Japan, South Korea, and China, all of which heavily protect their own industries, should not be permitted to displace North American production through outdated rules of origin.

Exchange Rates

The United States, Canada, and Mexico should set a high, state-of-the-art standard in NAFTA for market-based exchange rates free from manipulation and misalignment. This standard should be made enforceable under the agreement. Currency manipulation occurring outside of NAFTA countries should also be prohibited and made actionable under NAFTA, with strong penalties embedded into NAFTA-wide trade enforcement measures.

Trade Remedy Application

Anti-dumping and countervailing duties, as well as other trade enforcement measures, established by NAFTA nations with respect to products from non-NAFTA countries are critical to ensuring North American manufacturers compete on a level playing field. But we must better align our efforts to maximize the impact of our trade remedies. The

United States, Canadian and Mexican governments already work together in a number of forums to coordinate responses to unfair trade practices. However, we must use this renegotiation as an opportunity to expand and strengthen the cooperation between NAFTA nations. By developing new processes for coordinated action, we can ensure that U.S. manufacturers, as well as their Mexican and Canadian counterparts, can enjoy the benefits of more balanced trade with non-NAFTA nations. When negotiating these updated mechanisms for collaboration, it is vital that all parties strictly guard against evasion of trade remedy orders, whereby weaknesses in one country's customs processes are exploited to circumvent trade orders in another.

State-Owned Enterprises

The rise of state capitalism has created enormous economic distortions, impacting firms and workers in all three NAFTA nations. The impact of state-owned and state-controlled enterprises is having a significant adverse impact on competition. NAFTA should include strong and enforceable disciplines on state-owned and state-controlled enterprises that can serve as a state-of-the-art model for future agreements.

Labor and Environmental Standards

No nation should enjoy a trade advantage through substandard labor and environmental laws, or through the weak enforcement of such laws. NAFTA's side agreements on labor and the environment are completely inadequate as a tool to remove these market distortions. To ensure the benefits of NAFTA are more broadly and sustainably shared, its labor and environmental commitments should be strengthened and made as enforceable as the commercial elements of the new agreement, subject to strong trade penalties. All three nations have agreed to strengthened standards in the shelved Trans-Pacific Partnership (TPP), and the measures can and should be considerably upgraded with the TPP text as a starting point for negotiations.

Government Procurement

The United States should make no new procurement market access concessions in the renegotiations unless such new concessions are stringently reciprocal in both volume and access. The United States has already made significant and unparalleled procurement market access commitments under NAFTA and various other trade agreements. In fact, the Government Accountability Office (GAO) recently concluded that the United States reported opening more than twice the amount of government procurements compared to its next five largest trading partners, which includes Canada.

Currently, NAFTA's government procurement market access obligations are limited to the direct federal-level procurements of the three NAFTA countries. NAFTA's Chapter 10 does not apply to procurements made with federal assistance to the state and local governments, such as federal grants made for highway and transit assistance. This was a deliberate reservation of the United States. The Administration should make no concessions in the NAFTA renegotiations that would undermine these laws or these laws' standards for determining domestic origin. It is important to note that the

procurement preference laws applied to such federal assistance often require standards for determining U.S. origin that deviate and exceed the origin standards otherwise provided under NAFTA and any other trade agreements.

And, we encourage the Administration to consider undertaking negotiations on government procurement market access on a bilateral basis rather than in the context of the NAFTA renegotiations. The 2010 agreement between the United States and Canada following enactment of the *Recovery Act* provides a starting framework for such bilateral negotiations.

Investor-State Dispute Resolution

There is an open question as to whether three OECD-member nations need to include investor-state dispute settlement provisions in a trade agreement outside of their existing federal and sub-federal legal frameworks. In developing a new agreement, we should review the necessity of ISDS provisions in an updated NAFTA.

Conclusion

We look forward to working with the Administration as it works to boost manufacturing jobs and reform trade agreements, beginning with NAFTA, with the aim of ensuring that the benefits of trade are broadly shared and the rules are fair for American workers and manufacturers. With that in mind, we strongly recommend initiating a process to review the effectiveness of the Korea-U.S. Free Trade Agreement (KORUS) as well.

Sincerely,



Scott N. Paul
President
Alliance for American Manufacturing