Modernizing the North American Free Trade Agreement

Comments of the Advisory Committee for Trade Policy and Negotiations (ACTPN)

June 28, 2017

The Advisory Committee
For Trade Policy and Negotiations (ACTPN)
Comments Regarding the Negotiating Objectives and Priorities
For Modernizing the North America Free Trade Agreement (NAFTA)
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Description of the Committee

The Advisory Committee for Trade Policy and Negotiations (ACTPN) is the United States (U.S.) government's senior trade advisory panel. It was established to provide the U.S. Trade Representative with policy advice on: (1) matters concerning objectives and bargaining positions for proposed trade agreements; (2) the implementation of trade agreements once they are in force; and (3) other matters arising in connection with the trade policy of the United States. Advice on matters affecting individual sectors or policy areas is expected to be provided by several Policy Advisory Committees in the areas of agriculture, non-Federal governments, labor, environment, the Agriculture Technical Advisory Committee and the Industry Technical Advisory Committees (ITACs).

In keeping with its broad charter, the membership of ACTPN is representative of key economic sectors affected by trade. Members are drawn from manufacturing and service industries including small business and retailers, labor, think tanks, agriculture and consumer interests. The ACTPN membership list is appended to these comments.

ACTPN Comments on Modernizing NAFTA

The ACTPN agrees with President Donald Trump that it is time to modernize NAFTA to better advance American priorities, bolster economic growth, and protect and create middle-class jobs. This important agreement was negotiated twenty-three years ago. It opened markets, reduced tariffs and led to increased integrated supply chains between the signatories. Canada and Mexico are the United States' second and third largest trading partners, buying one quarter of exports of our goods and services. U.S. trade with these two countries has more than tripled.

The majority of the ACTPN believes NAFTA has furthered the economic development of the U.S., Canada and Mexico in significant and far-reaching ways. According to the Business Roundtable, in 2014, more than 12 million American jobs were supported by trade (imports and exports) with Canada and Mexico, and Canadian- and Mexican-owned companies employed about 700,000 workers in the U.S., almost half in the manufacturing sector. A strong North American trading bloc — where companies gain value from manufacturing within that bloc — is essential to continued economic growth and the global competitiveness of the region, in competition with China and others, and strong trading bonds with these vital allies enhance our national and regional security. Thus, the ACTPN supports maintaining NAFTA and continuing a close, mutually beneficial relationship with Canada and Mexico well into the future.

The majority of the ACTPN also caution against making the mistake of trying to use NAFTA to achieve goals that are beyond its reach, such as reducing the bilateral trade deficit with Mexico (we run a small surplus with Canada). Trade agreements can be effective in expanding the level of trade flows and altering their composition. Trade balances, however, derive from the economic fundamentals of each country: the relationship between domestic demand and domestic production, and the relationship between saving and investment. Trade agreements, or indeed trade policy more broadly, cannot correct imbalances in these macroeconomic phenomena. Moreover, changes in bilateral trade balances will alter only the geographical composition of the deficit, rather than its overall total, unless those economic fundamentals are addressed. In the case of NAFTA, Canada and Mexico both run larger global account deficits than the U.S. so a large majority of the ACTPN representatives believe it would be particularly inappropriate, as well as futile, to attempt to use the renegotiation to correct the global U.S. imbalance.

The labor union representatives of the ACTPN, however, sharply disagree with this evaluation. While the NAFTA has expanded trade amongst the three countries, they argue that working families have failed to adequately share in any of the gains. They cite research by the Economic Policy Institute which found that more than 850,000 jobs have been lost by the U.S. to Mexico over the 1993-2013 period. Their view is that the NAFTA has promoted a downward spiral in wages and compensation. They urge that the renegotiation should be focused on advancing job creation and the standard of living amongst workers in all three countries.

It is time to bring the NAFTA into the 21rst Century and to turn it into a high standards agreement in accordance with the negotiating objectives of the 2015 Trade Promotion Authority (TPA). As Ambassador Robert Lighthizer noted in his letter to Congressional leaders announcing the intention to launch negotiations with Canada and Mexico regarding modernization of NAFTA, our economy and businesses have changed considerably since NAFTA was negotiated. Consider only the advances in technology, digital trade and financial services since 1992, to highlight the need for updating the agreement. Some of NAFTA's original goals — such as protection for robust environmental and labor standards regulations — remain unfulfilled. Enforcement of all our Free Trade Agreements (FTAs) must be a priority if they are to fulfill the expectations of Americans. Finally, the realities of how NAFTA has operated over the past 23 years reveal aspects that should be improved, principally with respect to trade facilitation practices at the border. We appreciate this opportunity to comment and look forward to the results of the efforts to adjust and modernize the agreement.

Approach

We focus our comments on the following main areas: Agriculture; Services; ITA Expansion; Intellectual Property; Rules of Origin; Apparel and Footwear; Government Procurement; Customs Procedures; Enforcement; Environmental and Labor Regulation; Workers' Rights; Climate and Energy; Currency Manipulation; and Dispute Settlement.

Agriculture – The ACTPN finds the U.S. agricultural sector to be among the biggest beneficiaries of expanded market access opportunities resulting from NAFTA and that negotiations to modernize NAFTA could result in even greater benefits to U.S. agriculture. The ACTPN also recognizes that, if failure of the negotiations were to result in the dissolution of NAFTA or the withdrawal of the United States from the agreement, the consequences for the agricultural sector would be profoundly harmful. The Committee notes that the re-imposition of pre-NAFTA tariffs among the three NAFTA parties would have a disproportionate negative affect on U.S. agricultural products.

The ACTPN recognizes that U.S. agricultural exports to Canada and Mexico, the sector's second and third largest foreign markets, totaled over $38 billion in 2016, or 28 percent of total U.S. agricultural exports to the world. Those exports generated over $48 billion in additional business activity throughout the economy and accounted for some 287,000 American jobs. NAFTA also created a much more highly integrated North American market in a number of sectors, particularly in grains, oilseeds and livestock products.

The ACTPN notes that U.S. agriculture is comprised of many individual sectors, the large majority of which have benefitted from NAFTA, support its continuance and would oppose its termination. Sectors that have seen substantial growth in exports under NAFTA include: Beef, pork, poultry, dairy, corn, barley, wheat, rice, soybeans, cotton and a number of horticultural products. However, improvements could be made to agricultural provisions, both at the commodity level and on a sector-wide basis, which would make NAFTA even more equitable and robust.

The ACTPN agriculture and business community representatives therefore supports modernization of NAFTA in agriculture in the following areas:

<u>Sector-Wide</u>
Sanitary and Phytosanitary (SPS) Measures: Inclusion of an enforceable WTO-Plus chapter on SPS measures patterned on the SPS chapter in the Trans-Pacific Partnership (TPP) agreement. The objective is to strengthen and preserve science and risk-based measures and to accelerate resolution of trade disputes. All three NAFTA countries signed off on the chapter in the TPP agreement and including it in NAFTA would set an important precedent for all future U.S. FTAs.
Rapid Response Mechanism: Inclusion of a tool to help resolve shipment-specific issues, which could also be patterned on the mechanism negotiated in TPP.
Geographical Indications: Inclusion of rules on protections of common food names, as were also included in TPP.
Biotechnology: TPP also provides a basis for a new NAFTA chapter on agricultural biotechnology. The TPP chapter established commitments and guidance in such areas as transparency, information-sharing and avoidance of trade disruptions, but a NAFTA chapter could go farther, through inclusion of provisions in such areas as approval procedures and mutual recognition of safety determinations.
Regulatory Cooperation: NAFTA contains provisions providing for regulatory cooperation in the agricultural sector, but these need to be strengthened and subject to high level oversight. Such cooperation must be for the purpose of achieving, not delaying, results on regulatory issues.

<u>Commodity-Specific Issues</u>
The ACTPN agriculture and business community membership recognizes that there are many issues affecting trade between the U.S., Canada and Mexico in specific agricultural commodities and that these will appropriately be addressed in the respective Agricultural Technical Advisory Committees (ATACs), rather than by the ACTPN. However, the Committee notes that there are residual import restrictions on trade between the U.S. and Canada as a result of explicit exclusions from tariff elimination provisions of the original NAFTA to enable Canada to maintain and protect its supply management programs for dairy and poultry products. The Committee believes a true modernization of the NAFTA must eliminate these restrictions. In disagreement with other ACTPN members, the Teamsters note that dairy was not on the table in the original NAFTA negotiations, and they question the appropriateness of NAFTA renegotiations as a venue for challenging Canada’s sustainable systems of supply management.

<u>Other</u>
The agriculture and business community membership of the ACTPN recognizes that many agricultural sectors would be harmed if negotiations to modernize the NAFTA were to make possible the reintroduction of tariffs or the loosening of import relief rules for sensitive products, since agricultural sectors are often considered highly sensitive by Mexico or Canada. The ACTPN agriculture and business

community representatives do not want the updated NAFTA to be a vehicle for introducing new trade restrictions in agriculture, whether they be tariffs or non-tariff measures.

Services – The modernized NAFTA must eliminate current barriers to trade in services, including new services introduced after the original agreement. Today, services account for almost 80% of U.S. GDP and 80% of private sector employment. The labor union representatives on the ACTPN believe that each of the three governments should retain the right to regulate, free from the chilling effect of trade challenges, services trade, including cross-border transportation services, in the public interest and that the provision of public services by the government should be protected.

NAFTA was negotiated in the 1990's before the Internet connected the world to vast opportunities. The improved NAFTA must address new rules for the digital economy. The ACTPN business community representatives recommend strengthening the commitments of previous Administrations as they relate to non-discriminatory treatment of digital products and services; facilitated cross-border data flows; and promoted transparency in the process of developing laws and regulations affecting the Internet. The labor community representatives on the ACTPN, however, have concerns about the use of cross-border data flows that would facilitate job-offshoring or undermine privacy rights.

<u>Financial Services</u> – Over the last 23 years since the NAFTA went into effect, there has been a tremendous amount of innovation in the world of banks, insurance, credit and financial services and, indeed, the way in which we do business. The NAFTA financial services chapter should be significantly updated, but maintain the existing provisions regarding openness and integration of financial services. The business community representatives of the ACTPN urge that negotiators further should ensure the uninhibited flow of data and prohibit forced data localization requirements. In contrast, the ACTPN labor union representatives believe that forced data transfer is especially risky when sensitive personal financial data is involved. The ACTPN business community recommends expanding the scope of the NAFTA Financial Services Committee to mandate more integrated cooperation on regulatory matters and non-discriminatory investor protections and enforcement of those protections.

<u>Electronic Payment Services</u> – In today's world, it is widely recognized that cash and paper checks are less efficient than digital solutions that provide customers with new and better ways to pay and be paid. Electronic payment systems have revolutionized and facilitated e-commerce enabling more growth of small and medium-sized businesses particularly, and more consumer choice and spending, which accelerate economic growth. In fact, Moody's Analytics recently did a study that found increased use of electronic payments contributed nearly $300 billion to worldwide consumption from 2011-2015.

Open global markets allow U.S. electronic payment service providers to maintain efficient, centralized operations in the U.S. If foreign markets prevent free trade in cross-border EPS (*i.e.*, the use of infrastructure in the U.S. to process transactions in foreign markets), then U.S. companies will need to replicate or relocate some of their infrastructure in order to service those markets, which would require a transfer of jobs and their advanced technology located in the U.S., to other countries.

A renegotiated NAFTA should address two issues that affect U.S. EPS suppliers. First, NAFTA currently does not contain any provisions that would guarantee the right of U.S. EPS suppliers to supply cross-border EPS from the U.S. into Mexico and Canada. NAFTA should maintain a market access commitment to prohibit the imposition of numerical restrictions (*e.g.*, quotas), foreign equity caps, and restrictions on juridical form for cross-border EPS, and have a national treatment commitment to prohibit measures that discriminate against U.S. EPS in favor of EPS supplied by domestic entities.

Second, an updated NAFTA should require Canada, Mexico and the U.S. to allow cross-border data flows for companies in all sectors, including financial services. Incorporating these provisions in a renegotiated NAFTA would also establish a strong precedent for future U.S. FTAs. This is vitally important, as an increasing number of U.S. trading partners have taken steps to prohibit or severely restrict cross-border data flows. The labor representatives on the ACTPN, however, oppose using NAFTA to force trading partners to allow data transfers.

Teleshopping – Canada maintains significant regulatory barriers to entry for U.S. teleshopping companies because of its restrictions or limitations on licensing, ownership, and related requirements applicable to television programmers generally, without regard to the type of content they are broadcasting. In this regard, cultural, historical, and editorial programming is treated in the same manner as teleshopping programming. The restrictions needlessly limit or preclude U.S. television shopping retailers from engaging in purely commercial activities and thereby restrict their ability to participate in this portion of the retail industry in Canada. The U.S. should seek to remove these regulatory barriers that prevent U.S. teleshopping companies from operating in Canada.

Digital Trade – U.S. digital trade has expanded rapidly in recent years, contributing strongly to services trade surpluses and supporting jobs and growth in the U.S. However, it also faces increasing foreign regulatory threats, and needs a systematic framework to ensure its continued expansion. The USTR's intention to include digital trade protections in the NAFTA offers an excellent opportunity not only to strengthen North American digital integration but also to set a valuable precedent for future negotiations with other countries. Key provisions would include: prohibiting cross-border data transfer restrictions and data localization requirements; protecting new digital services against future discrimination; enabling electronic authentications and signatures to be utilized in digital contracts; permanently barring customs duties on electronic transmissions; requiring intermediary liability protection for unlawful content originating with third parties; allowing commercial text and data mining utilized in data analytics; and safeguarding source code and proprietary algorithms from foreign government access demands. The labor union representatives on the ACTPN believe that the concerns raised in other areas as they apply to digital trade must be addressed.

ITA Expansion – The World Trade Organization (WTO) Information Technology Agreement (ITA) with its recent expansion commitments is one of the most successful WTO agreements in lowering barriers to information and communications technology products. The ITA provides duty free treatment on several thousands of products which helps businesses and consumers alike. The ACTPN recommends the U.S. urge its NAFTA partners, specifically Mexico, to join both agreements.

Intellectual Property Protection – The U.S. should negotiate a high standards chapter to protect intellectual property (IP), including copyright, patent, trademarks and trade secrets. Strong protections combined with effective enforcement are essential for the continued growth and innovation of IP-intensive industries.

Rules of Origin – Ultimately, NAFTA should benefit NAFTA members. This is why a significant portion of the original negotiations dealt with establishing rules of origin for all categories of goods. The ACTPN unanimously believes rules of origin should be evaluated and updated, where necessary, to ensure that they promote strong and competitive North American enterprises. There is a difference of opinion as follows.

The labor union members of ACTPN urge the USTR to promote production within the NAFTA region and maximize production and employment opportunities in the U.S. In the more than 20 years since NAFTA entered into force, products, supply chains and production patterns have changed. These members believe U.S. production has suffered during this period through rules that have promoted offshoring and outsourcing as well as lax enforcement of existing trade rules. They point to autos and auto parts, where significant investments have been made in Mexico to create an export platform for the U.S. and other markets, and opportunities for U.S. workers have suffered. These members support expanding production in North America by significantly increasing the regional value content requirements, and closing loopholes in the rules of origin. The United Steel Workers argue for a strong standard to be included in the NAFTA requiring that steel be melted and poured in the NAFTA region to confer originating status. They also call for aluminum and other products, similarly, to have an updated standard requiring that primary materials originate, and transformation occur, in the NAFTA countries.

The majority of ACTPN members, however, urge caution in making changes to the rules of origin to ensure that they do not disrupt efficient supply chains and raise production costs, undercut U.S. competitiveness, and potentially backfire and lead to job losses in the U.S. and less U.S. sourcing because companies will import components and pay the Most Favored Nation (MFN) tariff. The ACTPN looks forward to working with the USTR to ensure that the objective of promoting production and employment in the U.S. is advanced. We urge that rules be simplified, easing the burden on customs officials to enforce them, and that they prevent pass-through operations.

Apparel and Footwear – The majority of the ACTPN members believe that the NAFTA is essential for U.S. companies operating apparel and footwear supply chains in the NAFTA region, supporting millions of jobs in the U.S., Canada, and Mexico. While supply chains have been built around the NAFTA yarn forward rule of origin, there remains less apparel production in the U. S. despite significant changes in the apparel industry over the past 20 years. One of the goals of the NAFTA yarn forward rule of origin was to create an integrated industry among the three countries, but Asia continues to dominate as the world's supplier of apparel. The NAFTA renegotiation provides an opportunity to drive trade within the Western Hemisphere and create the conditions here in the U.S. to accelerate – at scale – the regionalization of apparel manufacturing, particularly in the application of advanced technologies in the U.S. Technology innovation is unlocking new manufacturing models, such as fabrication, fiber, chemical and coloration technologies that accelerate production and manufacturing in America. This agreement should provide incentives and flexibilities that encourage such innovation.

To achieve these advancements in apparel manufacturing and incentivize capital investment in the U.S. to manufacture apparel, it is critical that there is flexibility in sourcing inputs for qualifying garments. In addition to incentivizing advanced manufacturing, NAFTA could also attract more traditional apparel manufacturing to the Western Hemisphere without risk of undermining existing Western Hemisphere supply chains by including flexibilities that would allow for the cumulation of inputs among U.S. Free Trade Agreement (FTA) partner countries, such as the rules enacted for Haiti. These efforts would spur increased regional integration in the Western Hemisphere.

We encourage the U.S. to work with stakeholders to refine a list of specific products that would meet the single transformation rule for discrete items that are currently supplied by Asian countries, including China, in an effort to drive further growth in the West. These flexibilities, while key to expanding the integration of U.S. yarns and fabrics, is just as important as maintaining the current exceptions to the yarn-forward rule of origin, such as tariff preference levels (TPLs) and single transformation rules for specific products. Those current exceptions should be preserved or expanded so as not to undermine the supply chains that rely on them. Additionally, updating the short supply list and providing other flexibilities could enable manufacturers in the NAFTA countries to fill capacity as NAFTA suppliers continue to evolve and develop broader capabilities.

Government Procurement – The majority of the ACTPN members support improving the Government Procurement chapter of NAFTA to modernize the commitments. It is important to maintain integrated supply chains and a level playing field for American exporters in all sectors to provide the Canadian and Mexican government and state-owned enterprises with products and services. We further note that Mexico is not a member of the WTO Government Procurement Agreement, therefore, if the NAFTA were to disappear, the U.S. could lose access to its government market. The labor unions on the ACTPN, however, share the Administration's appreciation of Buy American laws, especially when it comes to job-creating infrastructure investment. Accordingly, the unions argue that NAFTA Chapter 10 should be modernized to remove all commitments that undermine responsible bidding standards and all domestic or local preferences. They recommend that reciprocal access opportunities should be evaluated on a case-by-case basis.

Customs Procedures – The flow of goods between NAFTA members should be more seamless, transparent and efficient. Modernization of customs procedures have significantly outpaced the current NAFTA rules, so it is one of the key areas that has the potential to facilitate the movement of trade for businesses of all sizes by cutting red tape and eliminating barriers or redundancies at the border. The WTO Trade Facilitation Agreement should provide the basis and momentum to the NAFTA partners to push for further binding commitments, setting an even higher standard for customs processing and clearance. Modernized customs provisions in the NAFTA should include binding commitments on advanced rulings; simplified entry; automation and account-based processing; risk management; single window development and interoperability; elimination of redundant and outdated regulations; and modernization of the border process for all partnering government agencies. On this last point, the U.S. leads the way in advancing a "One Government at the Border" concept that has streamlined the process for dozens of federal agencies to clear cargo at the border. The NAFTA also should seek a level playing field and require Canada and Mexico to commit to increasing their de minimis value applicable to imports from unreasonably low levels ($20 in Canada and $50 in Mexico). This will particularly help SMEs.

Additionally, NAFTA should be modernized to allow for increased data sharing while protecting business confidential information as a way of expanding customs cooperation. U.S. FTA practices have evolved to reflect the use of electronic data submissions that have helped to expedite customs clearance processes, while providing advance information for trade enforcement targeting. Also, NAFTA should reflect current U.S. FTA record-keeping requirements and verification by requiring importers to provide the certification of origin and supporting documents to customs officials upon request if the claim is based on a written or electronic certification by the importer, exporter, or producer.

The ACTPN believes aligning and improving trusted trader programs would allow customs officials to quickly identify those shipments that pose the greatest risk. Transparency is critical to this partnership, such as providing adequate notice and comment regarding changes to customs regulations. Another example is Canada's practice of publishing its annual audit priorities, which provides clarity and allows importers to assist the government on those priorities.

There also should be increased regulatory cooperation and coherence, transparency, due process and non-discrimination. The NAFTA renegotiation should support the improvement of physical infrastructure and implementation of technological solutions at the border to reduce wait times and improve the flow of goods between the NAFTA countries. Finally, with increasingly ingenious ways of circumventing NAFTA origin rules, we need a multilateral approach to address and prevent violations of those rules — as well as evasion of antidumping and countervailing duty orders.

Enforcement – The ACTPN supports strong enforcement of U.S. and FTA partner commitments, which help American workers and businesses realize the benefits of international trade. We welcome efforts to make the NAFTA commitments fully enforceable. We recommend, however, avoiding any initiative to utilize the NAFTA negotiations to make changes to U.S. antidumping and countervailing duty laws.

Environmental and Labor Regulation – The U.S. is rightly proud of our longstanding commitment to environmental stewardship, sustainable operations, occupational safety and other workers' protections. We recommend that the modernized NAFTA incorporate advances in our laws in these areas, and call on the U.S. government to insist that enforcement, particularly in Mexico, be stepped up. U.S. companies should not have to compete with companies that do not protect their people or the environment. Not only does it create a cost disadvantage for those companies that do comply with the rules, but *preferential* trading benefits should only be provided to companies that provide safe and humane working conditions and clean air and water.

The following environmental provisions should be incorporated into the U.S. proposals for NAFTA, with additional strengthening of measures beyond what was in TPP to improve fisheries management and reduce trade in illegal wildlife, timber and seafood.

1. **Dispute Settlement**. Environmental provisions must be subject to dispute settlement under the treaty.
2. **Promoting Sustainable Fisheries Management.** This includes measures to:
    a. Prohibit fisheries subsidies, including those that contribute to overcapacity or overfishing, or that negatively affect fish stocks in an overfished condition.
    b. Adopt, implement, and effectively enforce the Port State Measures Agreement and take other commitments to reduce IUU fishing;
    c. Prohibit the trade in or transhipment of marine products, including seafood, taken, possessed, transported, or sold in violation of a foreign law; and
    d. Reduce bycatch and recover overfished stocks.
3. **Measures to protect marine species**, such as the critically-endangered vaquita porpoise and sea turtles; and to stop shark finning.
4. **Measures to prohibit trade in illegal wildlife, timber and seafood**, such as taking the approach of the U.S. Lacey Act and applying it throughout North America.

Workers' Rights – A critical area for updating NAFTA's rules and approach is in the area of workers' rights. Mexico fails to ensure that internationally-recognized workers' rights are properly afforded and enforced. This fundamental problem has fueled the migration of production and employment to Mexico without adequately advancing the rights and standard of living of the Mexican people. NAFTA must be updated and reformed to ensure broadly-shared prosperity among workers in all three countries. The foundation for that effort must be built upon strengthened workers' rights, including the right to organize and engage in collective bargaining free of government and employer control, with enforcement provisions that are timely, accessible and effective. These provisions should be updated and implemented prior to the entry into force of any commercial provisions that an updated NAFTA agreement might incorporate.

Climate and Energy - Climate change presents one of the largest risks to long-term American economic growth and prosperity through both its direct impacts and its effects on our trading partners and security. Cooperative action on addressing greenhouse gas emissions and transitioning to a low-emission economy would yield big dividends for the environment and for U.S. firms and workers that are world leaders in environmental technologies while helping to address a fundamental environmental threat. A modernized NAFTA should therefore include:

1. Commitments to expand investment in energy infrastructure that enables the development and deployment of renewable energy resources;
2. Cooperation across North America to encourage the use of carbon abatement measures and technologies; and
3. Elimination of fossil fuel subsidies by 2025 in accordance with commitments made at the North American Leaders Summit in June 2016.

In addition, we recognize that Canada and Mexico are instituting new carbon taxes at a time when U.S. policies are being substantially recast. Over time, there is a risk that different tax and regulatory regimes could create significant distortions to trade and investment among the NAFTA partners. The U.S. may wish to study the impact of carbon pricing policies being adopted in Canada and Mexico on the transboundary movement of goods and services, and the potential risk to trade if border carbon adjustments or other retaliatory measures were applied by our trading partners.

Currency Manipulation – Currency manipulation is widely understood to have the potential to severely undermine the potential economic benefits from trade relationships Neither Canada nor Mexico has been accused of manipulation for decades but the renegotiation of NAFTA should still include a binding chapter that covers manipulation and undervaluation, surveillance and enforcement mechanisms. In addition, cooperative mechanisms should be included to address the potential manipulation of currencies by non-NAFTA partners. Such a chapter would need to be compliant with the rules of the International Monetary Fund and the World Trade Organization.

Investor State Dispute Settlement – Some ACTPN members recommend the removal of Part B of Chapter 11 thereby eliminating investor state dispute settlement provisions (ISDS) in the NAFTA. These members regard ISDS as an unnecessary and unwarranted infringement on sovereignty, self-determination and local democratic control. They believe existing judicial mechanisms within the three NAFTA parties, and NAFTA's state-to-state dispute process, can adequately address claims without the continuation of the ISDS system. Other ACTPN members support strong investor and investment protections and urge that the 2012 U.S. Model Bilateral Investment Treaty (BIT) serve as the basis for an updated investment chapter.

In addition, NAFTA's Chapter 19 sets forth rules for expedited review of final national determinations for dispute resolution in antidumping and countervailing duty cases. While some members urge elimination of Chapter 19 procedures, other members would maintain Chapter 19 but work towards improving panel selection and transparency of Chapter 19 cases.

ACTPN Additional Views
Labor Representatives

The labor union representatives serving on the ACTPN believe that the principal focus of our nation's trade policies must be to advance the rights and interests of working people. Since NAFTA's entry into force almost 25 years ago, NAFTA has been an abject failure for working people, especially manufacturing workers, in all three countries.

The NAFTA has helped fuel a rising U.S. trade deficit, shifted U.S. jobs and production to Mexico, diminished wages and compensation for too many U.S. workers and contributed to rising economic inequality. The renegotiation of the NAFTA, done right, would promote growth and opportunity for workers in all three nations.

The Administration's call for renegotiations follows a nationwide debate about the merits of the Trans-Pacific Partnership (TPP), which was rejected by the presidential candidates from both major political parties. President Trump's first action on trade was to withdraw the U.S. from the TPP, an action strongly supported by working Americans. As a result, the TPP must not be a template for renegotiating NAFTA, as some suggest. It is time that the U.S. embrace an entirely different approach based on increasing worker compensation and labor standards to create an expanding middle class. That approach will create the strongest foundation for economic growth and opportunity and produce the greatest gains from trade for all people.

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